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THE

TRIAL

OF

WILLIAM SKIRVING,

SECRETARY TO THE BRITISH CONVENTION,

BEFORE THE

HIGH COURT OF JUSTICIARY,

AT EDINBURGH,

ON THE *6th* AND *7th* JANUARY, 1794,

FOR SEDITION;

WITH

AN ORIGINAL MEMOIR, AND NOTES.

"A TRIED PATRIOT AND AN HONEST MAN."

Inscription on his Portrait, by J. Kay

GLASGOW:

PUBLISHED BY MUIR, GOWANS, & CO.

42, ARGYLL-STREET;

SOLD BY A. RUTHERGLEN & CO. 84, TRONGATE;

AND WM. TAIT, EDINBURGH.

1836.

MEMOIR OF WILLIAM SKIRVING.

Mr. William Skirving was the son of a respectable farmer at Libberton, in the neighbourhood of Edinburgh. At an early period of his life, he formed a strong attachment to the religious principles and practices of that respectable portion of the Secession Church, then known by the denomination of Burghers, and to the public services of this church, he at one time resolved to devote his life. With this view, having finished his classical education at the College of Edinburgh, he commenced the study of divinity, under the tuition of the learned and pious Mr. John Brown of Haddington, who then filled the Professor's chair of the Burgher Academy. In this seminary, he prosecuted his studies with assiduity and success: securing to himself the approbation of his instructor, and the respect and friendship of his fellow-students. For reasons, however, which, at this distance of time, cannot be accurately ascertained, Mr. Skirving abandoned theology, and betook himself to agricultural pursuits, much to the regret of Mr. Brown, and in opposition to the opinion of a number of his religious friends. During the time he studied at Haddington, he lived in the family of Sir Alexander Dick of Prestonfield, as private tutor to his children: and from this gentleman he received many attentions, which, to a young man in his situation, were of the utmost advantage. He took a lease of the farm of Damhead, and soon after married Miss Rachel Abercrombie, daughter of Mr. Andrew Abercrombie, late merchant in Kirkaldy, who had, at his death, left Miss Abercrombie, his only surviving child, in possession of all his property.

Mr. Skirving having now commenced farmer, devoted his whole attention to the duties of that occupation. He cultivated his farm with much care, and on the most improved principles then known in the practice of husbandry. His success, however, was not what might have been expected; and he therefore found it necessary to give up his lease in favour of a relation of his own, and take possession of the farm of Strathruddie, in Fife, which he enjoyed by his wife.

Besides attending to the practical duties of the farmer, Mr. S. had accustomed himself to study agriculture as a science, and in this branch of knowledge had, in the opinion of many eminent agriculturists, made great proficiency. When, therefore, it was agreed to instal a professor of agriculture in the University of Edinburgh, he, by the advice of his friends, offered himself as a candidate for that situation, along with the late Dr. Coventry, a gentleman with whom he ever afterwards lived on the most intimate and friendly terms. But, though unsuccessful in his endeavours to obtain this honourable situation, which was conferred upon his competitor, he still pursued those studies which, had he obtained the professorship, would have become the business of his life, and accordingly he purposed to give to the world

a work on the subject of agriculture, which he had for several years been preparing for the press. Finding his distance from town a great hindrance to his proceeding with the work, he left the country with his family, and came to Edinburgh, where, in the spring of 1792, he published the first volume of "The Husbandman's Assistant." Of this work, a second volume was written out, but never published.

At this period, the public mind was much agitated by political discussions. The imperfect representation of the people in the Commons House of Parliament, together with the corruptions which such a state of the representative assembly naturally produced, were subjects which, although they had frequently occupied the attention of many intelligent individuals, who saw and lamented the evils which their country suffered, were yet, in some measure at least, new to the great body of the people. The time, however, had now arrived, when the occurrence of political events of the most extraordinary kind, forced, as it were, these subjects on the attention of men the least observant of what was passing around them. The French Revolution, with all the circumstances attending it, could not fail to produce this effect: and it did produce it in no ordinary degree, by exhibiting to the world what a nation was capable of effecting, when roused by a sense of its wrongs to assert its rights, besides presenting an awful specimen of the evils attending changes, effected by intestine wars, in the political institutions of a nation. The accounts daily published, respecting the progress of the people of France in political science, with the enlightened and liberal views of many of their leaders, made a deep impression on the minds of the great mass of the inhabitants of Britain, and led them to view the corruptions which had crept into their own political institutions as a subject of grave consideration. Many, therefore, of the most enlightened friends of the constitution, perceiving the bent of the public mind, had recourse to the only remedy for allaying the agitation now so general, which was evidently that of assembling in a constitutional manner, to express their grievances, and petition for redress.

Mr. Skirving's mind was far from being partially informed on these important subjects. He perceived, at once, the necessity and utility of the measures proposed by the friends of reform; and he was possessed of too much patriotism and public spirit, to allow him to stand aloof from the enlightened and respectable associations of his countrymen, which were now found in every part of the country, under the designation of the Societies of the Friends of the People. He, therefore, connected himself with one of these societies, and soon proved an active and zealous promoter of the great object they had in view. He regularly attended their meetings, assisted at all their deliberations, and, by the mildness of his manners, and straightforwardness of his conduct, soon gained the confidence of all with whom he associated. To him, accordingly, much of their business was left to be transacted. He acted as Secretary to the General Association of the Friends of the People, and also to the different Conventions which met in Edinburgh during the years 1792 and 1793; the last of which was the famous British Convention, which called forth so much acrimonious animadversion from the enemies of Reform.

The first Convention, in which, we believe, Colonel M'Leod acted

as president, assembled in December 1792, and was honoured by the presence of Lord Daer, Colonel Dalrymple, Mr. Muir, and other distinguished individuals, in the capacity of delegates from different societies of the Friends of the People. The resolutions of this meeting, which were afterwards published, exhibited, in a clear and distinct manner, the sentiments of the Friends of the People on the great question of Parliamentary Reform, and their inviolable attachment to the institutions of their country, as well as the anxiety they felt to avoid, in their conduct, every thing which, in the least degree, might tend to alarm the public mind. As a proof that such was their anxious wish, we may here mention, that, when Mr. Muir proposed that an Address from the Society of United Irishmen in Dublin to the Delegates for promoting Reform in Scotland, with which he had been entrusted, and which he presented and read, should be answered, so desirous were they to avoid giving offence, that the address, although exhibiting the most enlightened views of the political state of the country, combined with the most ardent patriotism, was allowed to remain unreplied to. These, indeed, were ticklish times; but we cannot help thinking, that the friends of Reform, when they afterwards found that one of the charges brought against their revered friend, Mr. Muir, was his having read this manly address in the Convention, must have regretted that they did not adopt his proposal to answer it, as their not doing so might have made it be believed that they disapproved of the sentiments it contained, and of the conduct of Mr. Muir in presenting it. Another occurrence in the proceedings of this Convention deserves particularly to be noticed, as it strikingly tends to illustrate the state of party feeling at this period. A society had, for some time, existed in Edinburgh, known commonly by the name of the Goldsmiths'-hall Association. It was composed, generally, of all the Aristocracy, the timid portion of the community, and those who hoped to reap advantage from subserviency to the views of the existing administration. This association assumed to itself the high-sounding title of the Friends of the Constitution, united to support it against those whom they were pleased to call republicans and levellers, and expressing their zeal to suppress tumult and sedition. The object of this society could not be mistaken by the Reformers; and as it had at this time a declaration of adherence to the constitution lying for signature in Goldsmiths'-hall, it was resolved by the Convention, that certain individuals of their number should repair to the hall, and attach their names to the declaration, as an evidence that the Friends of the People cordially acquiesced in the desire of supporting the constitution, and suppressing tumult and sedition. Messrs. Muir, Skirving, and some others, were accordingly appointed to perform this service. The society, however, with those feelings of inveterate opposition against Reformers which it uniformly displayed, erased their names, and published their proceeding in the papers of the day. It is certainly doing no injustice to the Goldsmiths'-hall Association to remark here, that the services which that society, at this period, rendered to the administration, did secure, to a certain portion of the inhabitants of Edinburgh, under the especial patronage of Sir Henry Dundas, afterwards Lord Melville, a rich harvest of all the good things which it is

in the power of a minister of the crown to bestow; and in grateful remembrance of which, we presume, one of the finest columns that adorn that splendid city has been erected,—a monument to posterity of the unblushing impudence of ministerial favourites.

Another Convention of the Friends of the People assembled in Edinburgh in the month of May 1793. The proceedings of this meeting manifested the same regard to public tranquillity as the first, and, at the same time, an increased conviction of the absolute necessity of a Reform in Parliament as the only means of saving the country from ruin. Reformers now, however, began to be exposed to persecution in every shape. The policy of the Pitt administration was now in full operation in every part of the country. It was dangerous to utter a liberal sentiment on the subject of politics, even in the meetings of friends; and to keep company with a Reformer, was, by many, found to be very detrimental in its effects. We have known tradesmen nearly ruined from being connected with societies of the Friends of the People, and workmen deprived of employment, merely because they dared to think and act for themselves in these matters. To enable a person, therefore, to be a consistent Reformer in such circumstances, he required to have a deep conviction in his mind of the importance of the object sought after, and also a high degree of public spirit. It cannot, then, be matter of wonder, that numbers, particularly of the higher classes, withdrew from attending the meeting of these men, and every other public demonstration of attachment to the cause of Reform. But it is, nevertheless, astonishing, and it shews, in a striking manner, the power of principle in the regulation of their conduct, that such a number of persons, some of them occupying the most useful and respectable situations in mercantile life, and distinguished alike for their religious and moral worth (for such was really the character of many of those who composed the associations of the Friends of the People), should have been found in circumstances so disadvantageous, and presenting so little hope of success, boldly contending for their country's rights. The Reformers of this period, and all who have followed in the same path up to the present hour, were distinguished also, notwithstanding the attempts industriously made to mix them up with persons harbouring designs against the political constitution of the country, for the calm and constitutional manner of their proceedings.

But to return to the subject of this memoir:—Mr. Skirving, though he frequently had occasion to observe that his conduct was narrowly watched, and notwithstanding the prominent situation he occupied amongst the Friends of the People, was fortunate in not having, as yet, afforded his enemies a plea against him. He had, indeed, suffered much from the loss of friends, and the malice of some who had the power of injuring him, but, up to this period, nothing from the arm of power. This, however, was not long the case. The principle of the war in which the country was now engaged with France was detested by the Reformers, and its real object, though not the avowed one, abhorred. Its effects having begun to be severely felt on the commerce of the country, together with the arbitrary manner in which the House of Commons acted in rejecting petitions for reform, naturally enough led some of the Reformers to write and

speak on politics with more freedom than was consistent with a due regard to their own safety and that of their friends. At a general meeting of a Society of the Friends of the People in Dundee, held in the month of July, a member brought forward an address, which the meeting approved of, and ordered to be printed. Mr. Palmer, then residing in Dundee, and a member of the Society, sent this address to a Mr. Morren, in Edinburgh, to be printed, with the request that Mr. Skirving should be given as many copies as he might desire. On receiving this document, Mr. Morren shewed it to Mr. Skirving, who, as stated by the former, did not approve of it. Without thinking more of the matter, Mr. S. received the copies sent to him by the printer, and gave some of them to such of his friends as happened to call upon him. This address was by the Sheriff considered as seditious and inflammatory, and Mr. Skirving, into whose hands it had come so unsolicitedly on his part, was thrown into prison, had his house searched, and a number of papers found in his possession taken from him. He might, however, have been liberated on finding bail, but this he refused to give, conceiving that he was wrongously imprisoned, and he therefore petitioned the Lords of Justiciary, insisting on his immediate liberation. As might have been expected, his prayer was refused, and he was ultimately under the necessity of giving bail to a large amount. In the petition which he presented, Mr. Skirving expresses his opinion of the address from Dundee thus:— "He considered the paper complained of as merely the strong effusions of honest hearts, alarmed by the measures of those in administration, judging the constitution in the utmost danger, and catching at the first grounds of alarm which presented themselves to their view;" and then justifies his own conduct in distributing it on the following grounds:—"The chief business of the Friends of the People, as preparatory to the Reform in Parliament which they sought, was the information of the public as to the grounds of Parliamentary Reform, its importance, and immediate necessity. He therefore judged it to be his duty, as secretary, to submit every information to the public which he received, and thought calculated to illustrate these points; and the individuals and societies who had it in their power to give such information, naturally transmitted the same to him as secretary." We quote these sentences to shew the opinion Mr. Skirving entertained of the paper which had occasioned him so much trouble, and the view he took of the duties which devolved upon him as secretary to the societies of the Friends of the People. We would now laugh at the idea of a man being held guilty of a crime for either printing or publishing such a paper as the one referred to; but times are altered. The sequel will shew what importance continued to be attached to this production, and how much Mr. Skirving and Mr. Palmer suffered on account of it. But, to proceed with our narrative. Convictions for political offences had not unfrequently taken place previous to this period; but the punishments inflicted never exceeded a few months' imprisonment, which, though sufficiently severe for the nature of the offences, were not generally considered rigorous. The comparative mildness of these punishments did not, however, prevent public manifestations of sympathy for the sufferers, to the great chagrin of the enemies of popular rights. But severer punishments

were now meditated. The Lord Advocate, then Robert Dundas, Esq. of Arniston, actuated by a spirit of hostility to the Reformers, which he frequently exhibited in a manner highly unbecoming the important situation he occupied, and anxious to increase the punishment for political offences, conceived that he was warranted to raise up a part of the law which, by his own confession, "had slept in peace for a century." Having chosen this new ground, untenable as it was viewed by many of the most eminent lawyers, and having nothing to dread on the score of responsibility, he proceeded coolly to select his victims. The first of these was Thomas Muir, Esq. younger of Huntershill. This gentleman had early identified himself with the cause of Reform. His political creed was, perhaps, the most unsophisticated which had ever been adopted by any Reformer; and this was daily illustrated by the magnanimity of his own conduct. In it no ground could be found to suspect him as actuated either by a petulant wish for power, or by the pride of aristocracy. Unlike many who talk finely and feelingly of the rights of the people, when they only mean the rights of certain classes, he viewed with pleasure the artisans, mechanics, and labourers, standing forward, and claiming the restitution of rights, the possession of which, he justly conceived, was of greater importance to them than even to the rich; because, from their rank in society, they were much more exposed to the grasp of arbitrary power, and had much less the means of protecting themselves against its merciless exercise. "He has stepped from his pedestal," said an eminent Whig, when speaking of him. Yes, we answer; he stepped from that pedestal which, from his rank in life, aristocratic pride would have allowed him to have occupied: but such an elevation was abhorrent to his feelings, and unsuitable to his genius; and when he made this sacrifice, he planted his foot on the altar of Liberty, round which, when the yet unborn millions shall assemble, they will hail the name of Muir, and gratefully remember his exertions and sufferings in the cause of man.

Mr. Muir was tried before the High Court of Justiciary on the 30th August. He conducted his own defence: and, as might be expected from the great talents he possessed, with admirable spirit and energy. But it availed him nothing. In those days, "to accuse was to convict." The verdict of "guilty," therefore, pronounced by his jury, was not a matter of surprise; but the conduct of the court, in recording a sentence of *fourteen years' transportation*, excited both indignation and alarm.

The next Reformer who was doomed to suffer from this new and hitherto unheard of application of the law, was the Reverend Thomas Fyshe Palmer. This gentleman, as we have already stated, was a member of the Society of the Friends of the People in Dundee, and had taken on himself the charge of getting printed for the society the address, for which Mr. Skirving had been apprehended. This publication gave offence, and was held to be seditious. Mr. Palmer was accused of being the author of it; and, although Mr. George Mealmaker, another member of the Society, acknowledged that he wrote the paper, and that Mr. Palmer only revised it, and, in fact, softened several of the expressions, still the latter was indicted for printing and publishing the offensive document,—tried at the Circuit Court at

Perth, 13th September,—brought in guilty, and sentenced to seven years' transportation. The severity of these proceedings created a great sensation in every part of the country. Men of liberal minds on the subject of politics, perceived that the object of ministers, in having recourse to such extraordinary means at the extremity of the empire, to put down Reformers, was to pave the way for the exercise of the same arbitrary power at its centre, and thus at once to prevent all liberal discussion of the measures of government. This opinion was afterwards shewn to be well-founded, in the attempt made, in the end of the following year, to convict Hardie and others of high treason.

From the result of Mr. Palmer's trial, Mr. Skirving saw plainly the fate that awaited himself. As we have already stated, he had been imprisoned on the ground of having circulated the address from the society in Dundee, and was liberated on bail. And having been cited as a witness on Mr. Palmer's trial, but not examined, no doubt was left on his mind as to its now being the intention of the public prosecutor to bring him to trial. Notwithstanding, however, of this, he continued to discharge the duties of his office as Secretary to the Friends of the People, in which he was encouraged by the spirit displayed, at this trying period, by that body of his fellow-citizens. Far from being intimidated by the severity of the treatment of their friends, or the aspersions cast upon them from the bench, they boldly stood forward and declared their opinion of the measures employed against them, and their determination, by every constitutional means in their power, to obtain what they conscientiously believed to be essential to the salvation of their country—a more equal representation of the people in the Commons House of Parliament. Accordingly, a numerous and respectable meeting was held in Edinburgh in the month of October, and in the published proceedings of this meeting, they declared that, "Conscious of the purity of their motives, and the legality of all their proceedings, which have been solely confined to that great object of national justice—a Parliamentary Reform, the Friends of the People have heard, with mingled astonishment and contempt, the *false* and *injurious* aspersions bestowed upon them, in the course of Mr. Muir's trial. In their own vindication, and to shew the world that neither the imbecile ridicule of a crown lawyer, nor the unconstitutional opinions of a judge, can make them desert the great and important cause in which they are embarked," and they therefore resolved, "That this society is determined to adhere to the original principles of its institution, 'an equal representation of the people, and a shorter duration of parliamentary delegation,' and calls upon the people of Scotland to unite in assisting to obtain a reform in the Commons House of Parliament, the only measure that can secure to them, and to their posterity, the inestimable blessings of peace, check an increasing and oppressive system of taxation, and prevent the baneful influence of that corruption, which has proved so inimical to public virtue, and so destructive to private morals." Such, then, were the sentiments of the Reformers of this period with regard to the evils arising out of the state of the representation, and surely the experience of the last thirty years affords ample illustration of their truth.

This meeting was followed by that of the General Convention, which took place in the end of the same month; but as delegates which were expected from the societies in England had not arrived, they adjourned to the 19th of the following month, when they again met. The circumstances in which this association assembled, were the most inauspicious for the cause of Reform which could possibly have occurred. A servile and venal press, entirely subservient to the views of administration, had succeeded, to a great extent, in filling the public mind with the most unreasonable fears respecting republican principles. The atrocities of the French Revolution were their constant theme. These they endeavoured to show were the natural effects of the principles of government adopted by the people of France; and, by the basest insinuations, and the grossest misrepresentations of the conduct of the Friends of the People, they attempted to induce the belief, that their principles were also republican, and all their proceedings highly inimical to the civil institutions of their country. Besides, the measures of government clearly indicated that the severest steps were about to be taken to put down every public expression of liberal opinions. In Ireland, a convention bill had received the sanction of Parliament, and become the law in that ill-fated portion of the empire. Of this bill it may with truth be affirmed, that several of its enactments would have disgraced the state policy of a grand seignor or Russian autocrat.

Such being the circumstances in which the delegates of the Friends of the People met, it was quite natural that, in the course of their deliberations, the alarming prospects before them should form a prominent subject of consideration. The idea of the people being deprived of their constitutional right of assembling to state their grievances, with a view to obtain redress, was an extent of political degradation which could not be contemplated with indifference by any class of men but the veriest slaves of a heartless despotism. The insidious manner in which a measure to effect this object might be introduced into Parliament did not escape the notice of the Convention; and, accordingly, they resolved that the different societies with which they were connected should appoint delegates, who should hold themselves in readiness to meet on the shortest notice, for the purpose of remonstrating, by petition, against the adoption, by Parliament, of any measure hostile to the liberties of the people. The time and place of meeting of this *convention of emergency*, as it was called, were to be fixed by a committee, consisting of the secretary, and three other members of the Convention then assembled. By this arrangement, the first notice given of the introduction of a convention bill, or a bill for the suspension of the Habeas Corpus Act, or the Act for Preventing Wrongous Imprisonment, and undue delays in Trials in North Britain, or the Admission of Foreign Troops,—all or any of these bills being introduced, should be a signal to the different societies to repair to the place of meeting appointed by *the secret committee*. Certain resolutions were also adopted for the purpose of rendering the union formed with the societies in England more efficient for promoting the cause of Parliamentary Reform. In the Convention, the discussion of these and other topics frequently gave rise to debates which called forth, on the part of its members, a display of extensive

political information, combined with ardent feelings of patriotism. These displays of political acumen and feeling, while they were highly gratifying to the friends of Reform, had a very opposite effect on the minds of those opposed to that truly national measure. They considered it the height of presumption in the Convention to expose the imperfect state of the representation, and the tendency of the corruptions which had crept into it; but still more were they incensed at the measures now adopted, by which the Reformers publicly declared their conviction, that, under the influence of that corruption, there was reason to apprehend the exercise of a power destructive of every vestige of their remaining rights. As, however, the proceedings of the Convention were perfectly legal and constitutional, those who opposed them (thus deprived of a more direct way of injuring their cause) had recourse to calumny and misrepresentation for the purpose of ruining their credit with the public; and it is to be regretted that, in one instance, they unfortunately were afforded an opportunity of employing these vile arts with effect. The French National Convention was, at this time, an object of the greatest attraction, both on account of the wonderful talents displayed by its members, and the peculiar and extraordinary circumstances in which they were placed, as called to legislate for their country, which had recently thrown off the yoke of despotism, and on account of which all the powers of Europe had declared war against her. This assembly was, consequently, considered, by all the abettors and supporters of despotic power, as the very crater of revolution. It was, therefore, rather unfortunate that the delegates of the Friends of the People should have assumed the name of the British *Convention*, and still more so, that they should have used a number of other names, such as, *secret committee* and *convention of emergency*, which, in the then state of the public mind, were considered as words peculiar to the vocabulary of the French republic. The impropriety, and even danger of this practice, we think, might at once have struck the minds of such an intelligent body of men, especially as they must have been aware of the extreme sensitiveness, on all political points, of the powerful aristocracy, against whose principles and practices their efforts in the cause of Reform were now directed. It was, indeed, the case, that a number of the members of the Convention considered the using of French names as extremely foolish, although a still greater number, owing, no doubt, to their minds being occupied by more important matters, evidently looked upon it as a matter of entire indifference. To use French names was, besides, a practice neither new nor uncommon in this country; and when we add to this, what we know to have been the case, that the terms were first introduced into the Convention through mere playfulness of disposition on the part of one of its most distinguished members, it is extremely probable that they were continued, either from a conviction that they expressed, more properly than any others they could have used, the nature of the things to which they applied them, or from a regard to the French Convention, whose noble efforts, at this period, in the cause of their country, astonished all Europe. We are, therefore, persuaded, that the obloquy which has been thrown on the association on account of this practice has been most unmerited; although we repeat our sur-

prise, that the Convention should thus have given the opposers of Reform the means of injuring them and the cause they espoused.

Of the means thus afforded, their enemies were not slack in taking advantage. The aristocracy, the avowed and determined opposers of all reform, and in whose minds reform and revolution appear to have been terms of similar import, either were or pretended to be greatly alarmed at the existence of a body of men, whose purpose, they unhesitatingly insinuated, could be nothing else than to subvert the government; and as nothing was wanting on the part of those in power to put a stop to the meetings of that Assembly but a pretext however hollow, this charge was deemed perfectly sufficient for this purpose. Accordingly, on the 5th December, while the Convention were calmly discussing a petition to Parliament, the Lord Provost, accompanied by a number of constables, entered the hall, and commanded them immediately to dismiss. In reply to this mandate, the President and several members told his Lordship that they were exercising a constitutional right of which, in their opinion, he had no authority to deprive them. The Provost, however, persisted, and taking the President by the hand, pulled him out of the chair, upon which the meeting immediately and quietly broke up. Determined to maintain their right so far as in their power, and consistent with the public peace, the Convention met next day beyond the jurisdiction of the Magistrates, but were dismissed by the Sheriff-substitute of the county, in the same manner as they had been by the Provost the preceding evening. The interdict of the authorities being, however, understood to apply only to the British Convention, Mr. Skirving called a meeting of the General Committee of the Friends of the People; but, on reaching the place of meeting, accompanied by a friend, he found the entrance to the house in possession of a number of the town-guard, who refused to permit any person to enter it. As a number of persons were, by this time, assembled on the street, with a view to attend the meeting, Mr. S. considered it to be his duty to intimate to them, "that, in consequence of what had taken place, it was judged proper to adjourn the meeting, and to lay the business of it before the several societies for their separate determination." Having made this intimation, he retired with his friend; but, while proceeding along the street, they were apprehended by the constables, and taken before the Magistrates: after being examined, they were dismissed without any breach of the peace having been laid to their charge. These occurrences, however, placed Mr. S. in a painful situation, and were shortly after followed by that which led to his final ruin, and for ever blasted his worldly prospects. On the dispersion of the British Convention, he was imprisoned on a warrant from the Sheriff, had his house searched, and all his papers taken from him.

His prosecutors, now, as well as previous to his imprisonment, acted the part of inquisitors in all their attempts to criminate the subject of our memoir, distinguishing themselves alike by their disingenuousness and cruelty. The most harassing uncertainty existed as to the nature of the charges which it might be the intention of the public prosecutor to prefer against him. Experience had fully shewn, as we have before observed, that at this time "to accuse was to convict," and from the harshness with which the reformers were treated, there

was no length to which their persecutors might not be induced to proceed against them, while no confidence could be placed in any jury, which, at this time, to the disgrace of those who were selected as jurors, could be viewed in no other light than as the tool of a faction. In the manner in which Mr. Skirving was treated, there was much to induce the belief in the minds of those little acquainted with the political proceedings of the day, that he must have committed an offence of a very aggravated nature, of which the circumstance of those with whom he acted being denounced as men unworthy to enjoy the common privileges of citizens, would, to their minds, appear sufficient proof; while those who had formed their opinion of the Friends of the People from the misrepresentations and false statements industriously circulated against them by their enemies, were not likely to sympathise with him in the sufferings to which he was now exposed. Conscious, however, of the legal and constitutional nature of all the political proceedings in which he had participated, he looked forward, with confidence, to the period when the conduct of himself and the friends with whom he acted, should be submitted to the investigation of a discerning public, whose acquittal he was much more anxious to obtain than that of a jury.

After having been incarcerated for several weeks, Mr. S. was liberated on high bail, and on the 20th of December, 1793, he was served with an indictment to stand trial on the 6th of January following, before the High Court of Justiciary, for the crime of sedition. The unusually short space of sixteen days only was thus allowed him to prepare for his defence, and much of this limited time was necessarily occupied in attention to personal and family matters. He, however, resolved to conduct his own defence—such being the apprehension of gentlemen of the legal profession of the unreasonable prejudices of the court against the Friends of the People, that it became a matter of delicacy to request the assistance of any of them on such an occasion. There was, besides, nothing in the nature of the charges preferred against Mr. Skirving, which, in the mind of any reasonable person, could be considered as requiring the superior advocacy of counsel; but the object of the prosecution was too obvious to be mistaken, and, against the determination of the prosecutor, in existing circumstances, the most powerful defence could have availed nothing.

The interest felt by the public in the fate of the reformers was strikingly manifested on the occasion of Mr. Skirving's trial. On the morning of the day of trial, some time previous to the sitting of the court, an immense crowd of persons assembled in front of his house, who, on his leaving it on his way to the court, received him with loud cheers; which were repeated by many thousands as he and his friends passed up the High-street. The reception of the Lords of Justiciary was of a very different description. No sooner did any of their Lordships arrive, than they were received with hissing, and every mark of popular disapprobation.

Referring the reader to the account of this extraordinary trial, we consider it superfluous here to do more than make a few remarks. The proceedings in this case afford an astounding view of the despotism then exercised by those in power in this country. In these it will be perceived that the principles of the constitution which are in-

tended to secure the liberty of the subject, were grossly violated; and a court of justice was, to subserve the purposes of a wicked and tyrannical minister of the crown, rendered an engine of oppression the most intolerable to which it is possible to men to be subjected, even under the sway of an iron-handed despot. The powers with which the Lord Advocate of Scotland is by law invested are, we believe, very extensive; but we are convinced that no officer of government, if he knew that he were responsible, would dare to assume the authority exercised at this time by Dundas of Arniston. To meet for political purposes or for any other constitutional object was a right secured to the people by the law of the land, and to attend a political meeting was never considered by them an offence. The meetings of the Friends of the People were therefore attended by citizens of every grade, and without reserve. Now, however, the people were deprived of this right; and we blush to state the fact, that the Magistrates of an enlightened capital should have so far degraded themselves as to pander to the wishes of a political apostate, however exalted in rank, by taking upon themselves to disperse by force the Convention of the Friends of the People. This act of disgraceful political subserviency, afforded the Lord Advocate a fine opportunity of subjecting to his arbitrary power all who had in any measure given offence by their political conduct; and of this he was not slow in taking advantage. The Secretary of the Convention was the first who was made to feel the exercise of this unconstitutional power; and he was accordingly summoned to the bar of the High Court of Justiciary, charged with the crime of sedition.

From the manner in which the public mind had been abused respecting the associations of the Friends of the People, and particularly the proceedings of the British Convention, it was naturally expected that some extraordinary disclosures would, in this case, have been made, of the revolutionary designs with which these associations had so long been stigmatized. But what was the fact? The criminal letters which were served, proved to every unprejudiced mind the Reformers' innocency of all the malicious charges brought against them by their enemies. With regard to the individual subjected to trial, it must appear obvious to every one who examines with candour the judicial proceedings, that he had, while actively engaged as a leader in the cause of Reform, passed through a period of uncommon political excitement, without either in word or action having given the least ground to suspect his attachment to the institutions of his country, or, in any instance, having allowed himself to be betrayed into either arrogance or presumption, in advocating the cause of his country. This much we conceive we have a right to assume from the proceedings on the trial. The charges laid in the indictment, so far as they relate to the personal conduct of the accused, are so extremely futile, that every person of discernment must be convinced, that the Public Prosecutor must have calculated on other means of conviction, even though the personal charges had been proved by evidence to the very letter, especially when the fact is kept in view, that from all legal responsibility respecting the actions libelled, Mr. Skirving had been previously assoilzied by the local authorities. Yes, the means the public prosecutor relied on, were doubtless the effect of the base calumnies circulated respecting the political designs of the Friends of the People; by

which a degree of terror was excited in the minds of many of the most influential classes, of which it would be very difficult now to conceive. In addition to this, he found, among those in office, such a strong inclination to yield to the dictates of those above them, that their subserviency to promote the views of Pitt, might in all cases be calculated on, of which the conduct of the Magistrates, as already noticed, was a striking proof. On the bench, in the Court of Justiciary, he found men who were not only willing to go all the lengths which he himself was inclined to go in circumscribing the rights of the people, but even to outrun him. Before a tribunal, therefore, so constituted, there could be no opposition dreaded, however unconstitutional the doctrines which he might think proper to enforce. It is to these circumstances, we apprehend, that we must attribute the extraordinary presumption of the Lord Advocate, when he, at this time, denounced the associations of the Friends of the People illegal and seditious,—thus putting beyond the pale of the law, a numerous and respectable body of citizens, who had, for a long time previous to this period, been in the habit of meeting for political purposes, without in one instance having been accused of any thing in their conduct opposed to the peace and well-being of the community. The intelligent reader of the proceedings in the case of Mr. Skirving, as indeed of those of all the Reformers at that period, will therefore readily perceive, that it was not their personal offences which subjected them to exile from their native country, but their having connected themselves with men, whose object was to obtain a reform in the representation of the people. Of this the case before us affords a convincing proof.

It will be observed, as a curious circumstance connected with this case, that the Bench, when called on to give a legal definition of the crime of sedition, shewed themselves quite incompetent to the task. All that the accused could obtain from them on this important point, was a reference to former decisions, and expressions of surprise that any definitions should be considered necessary. In fact, it appears throughout the proceedings to have been the object of their Lordships to make the law subservient to their malicious opposition to the friends of Reform. In his defence, however, Mr. Skirving, we think, distinctly shewed that the overt act charged in the minor proposition of the indictment, did not constitute the crime of sedition; that though proved to have been committed, they constituted only the crime of leasing-making,—a crime very different in its nature from sedition, and to which, on conviction, a much more lenient punishment was by law affixed. It would be an easy task to shew, that in this, as well as all the other trials of this time, there was manifested, on the part of the Bench, a determination to convict, regardless of the many well-founded legal objections presented for their consideration. We have, however, no wish at present to enter into any details respecting the conduct and demeanour of the Court during the progress of these trials; but it is a well-ascertained fact, that in the minds of the public, arising from what had been witnessed of the Court of Justiciary, when any Reformer was brought up for trial, his sentence was familiarly talked of as a matter of course, and without a single mistake as to the length of time he would have to remain in exile.

The cruel treatment which the Reformers experienced at the hands

of the law authorities, naturally excited a deep feeling of interest among the people, to which they took the opportunity of giving expression, as they had done in the case of Mr. Skirving, by accompanying them from their lodgings on the days of trial to the court-room. But this they were not permitted to do without interruption. The magistrates, aware that such a display of popular feeling was intended, compelled them, at the risk of the peace of the city, to desist,—a specimen this of the kind of rule exercised at this time by the minions of the tyrant Pitt, under whom, in the government of the people, force was more frequently had recourse to than the dictates of either law or reason. To this system the Friends of the People now found themselves exposed in all its rigour. The consequences were, that to take any part in the management of their societies, was sure to expose the individual who did so to much personal suffering, if not total ruin. For some time, indeed, after the proceedings we have been noticing occurred, societies of the Friends of the People continued to meet without making any movement publicly in behalf of the cause of Reform; but the ever-active malevolence of their enemies soon suggested a scheme by which the most innocent individuals among them, had it succeeded to the extent intended by those who contrived it, might have been dragged forth and executed as traitors. We here refer to the government plot entrusted to the management of Robert Watt, the object of which was to ruin the cause of Reform by the sacrifice of a number of its most enlightened supporters. Happily, however, the base machination succeeded only to a very limited extent; for although it was the cause of much unhappiness and suffering to a number of the most active Reformers, still none of them were convicted of having had the slightest connection with, or of having given countenance to the Judas thus so insidiously sent amongst them. From the year 1794, until near the close of the late war, the excitement occasioned by war, the dread of invasion, and its attendant evils, drove from the public mind every thought respecting the internal state of the country.

During the short time that Mr. Skirving remained in the Jail of Edinburgh, after receiving sentence, he was joined in that prison by Mr. Margarot, who also had received sentence of *fourteen years' transportation*,—a term of years for which the Court of Justiciary seemed at this time to have had a peculiar predeliction, when a Reformer was the subject of punishment. Here after remaining a short time, they were carried to London, and having been confined some time in Newgate, were, by an order from the Secretary of State's Office, removed from that prison, and put on board of the Surprise transport, then lying in the river receiving convicts for New South Wales. On board of this vessel, Mr. Skirving found his compatriots, Messrs. Muir and Palmer. The treatment these gentlemen had experienced while in England, affords a striking proof of the vindictive feelings exercised towards the Reformers by those in power at this period. In the Hulks they were placed on a level with the common felons; and so strict were the orders given respecting them, to the officers of these dreadful prisons, that not the slightest difference durst be made in their mode of treating them. The master of the transport also received instructions from the Secretary of State's Office, to treat all

under his care as common felons. And for some time after being put on board, the suffering patriots were compelled to live with the convicts: the officers of the ship, however, most generously requested the captain to have them removed from the felons' hold, and with this request he complied.

During the time the ship lay on the coast of England, which was from the early part of the month of February until the first of May, Mr. Skirving's correspondence with his family and friends shews that he had enjoyed an uninterrupted composure of mind, arising from a conviction of the justness of the cause in which he suffered, and the importance, to his country, of the rights he had sought to obtain for her.

In the ship, he and his friends were visited by several of the most distinguished politicians of this period, who honoured them with every mark of attention, while some of the most popular political institutions of the time addressed them in the language of condolence, and the warmest approbation. But, with these marks of attention, their friends did not rest satisfied. They sent on board, for their use, every article which they thought might be of use to them during the long voyage on which they were about to proeeed, or that could minister to their comfort; and they also bargained with the captain to allow them separate apartments in the ship, for which they paid him a handsome sum.

On the 1st of May, 1794, the Surprise sailed from St. Helen's, in company with a number of Indiamen, and on the 4th of July reached Rio de Janeiro. The vessel having touched at the port, afforded Mr. Skirving an opportunity of writing his family, and other friends. For some time previous to the receipt of these letters, it had been confidently reported that a mutiny, attended with fatal consequences, had broken out in the ship. The arrival, therefore, of these letters tended greatly to relieve the painful anxiety of mind which the report had occasioned to the friends of the exiled Patriots. The following extract, however, from Mr. Skirving's letter to Mrs. Skirving, will shew that the report, though false, was not without foundation.

"Rio de Janeiro, 5th July, 1794.

"My Dear,

"I wrote you by the West India Fleet, when they parted with our convoy; which letter I hope you have received. We arrived at this port yesterday, in safety. My increasing love for you constrains me already to begin writing to you, but I shall keep my letter open while I may not lose the first opportunity of transmitting it. My unshaken faith in God our Saviour, that he is and will continue to be the husband of my widow and the father of my fatherless, while the designs of his providence requires the continuation of our separation, continues my support in this very unpleasant voyage. I trust your experience of this grace supports your comfort, and invigorates your faith and hope in the same Almighty power and love.

"I will not write you the particulars of our voyage till we are arrived at our destined port. Indeed, an intervening disagreable occurrence renders it imprudent to write particulars. It has caused me much trouble and vexation, but the abounding, the superabounding consolations of divine truth, and conscious innocence, have been my shield,

and will ere long turn the counsel of the froward headlong. A man of the name of Draper, who was condemned to be shot for mutiny against the King's son at Quebec, but was pardoned, though the chief in the plot, on condition of entering the regiment of New South Wales, a part of which are with us as our guard, had been sent to join the party on board of this ship, and the sufferings he had undergone excited my feelings, and being a tailor to business, I resolved to give him employment after his irons were knocked off, some short time before we left Portsmouth, especially, as his officer recommended him as deserving, and kept him off duty that he might procure by his trade some necessaries for so long a voyage. But our stay at Portsmouth being uncertain, his extreme necessities made him apply to me for some advance money. I proposed that each of us four should advance half-a-guinea. Each of us, however, having many similar applications, I resolved to supply him myself; and accordingly caused him give me a list of the necessaries he wanted, and requested my friends that articles might be furnished to him, and charged to my account.

"Whether this man, from his restless disposition, had really plotted to seize the ship, or had merely been sounding his confidents, as making himself chief among them, I know not. I do not believe that any serious plot was laid, unless in his own vindictive breast; but he certainly had conversed with some of the convicts, and they, desirous of liberty, must have said they would accept the first opportunity to regain it. Some conversation to this effect having been overheard, the persons accused were immediately confined and put in irons. Draper, conscious that he would be found chief, and knowing what influence his former conduct would have in fixing a conviction of guilt against him, judged his safety depended on turning King's evidence; and, to make his information appear better, added Mr. Palmer and me to the number of those he accused; thinking, I suppose, that as nothing could be proved against us, we would get off with little trouble, and he would get a pardon for his information. Circumstances favoured his hellish ingenuity, but it would be imprudent to write particulars at present. Both the captain and his lady are very indulgent, and, I believe, are convinced that I am incapable of the folly and wickedness of such an attempt. I have been much favoured to bear with equanimity this unprovoked attack. Let our friends, every where, know that we will do nothing to disgrace the cause of truth and righteousness, for which we suffer."

From the above extract it is evident that Mr. Skirving, at the time he wrote, was suffering much anxiety of mind respecting the probable issue of the wicked machinations of which he was so cruelly made the victim; and that this should be the case, is not to be wondered at, considering the very peculiar circumstances in which he was then placed. But it is extremely pleasant to observe the influence of religious principle and conscious innocence supporting his mind under such accumulated suffering. It will also be observed, that he considered it prudent, at the time, not to write the particulars of what had occurred; and, as we have no doubt, that the account he gives of his situation is one (while true in every particular) intended to soothe, as much as possible, the mind of the dear relative to whom it was ad-

dressed, we have felt some anxiety to obtain a perusal of the letters we knew he wrote at the same time to other friends, but without success. The following account, therefore, of the pretended mutiny, with the circumstanees attending it, are taken from a letter addressed by Mr. Skirving to Governor Hunter; a letter written evidently with a view to gratify the Governor with a circumstantial account of what had occurred on board of the transport, and, therefore, containing much which would not now be interesting to the reader.

"For some weeks after the Surprise left England, every thing on board of her was conducted with the greatest regularity; owing to the judicious management of Mr. M'Pherson, who was well qualified to fill the situation of first mate, in a vessel of her description. Unfortunately, however, he was not a favourite of Captain Campbell's, the master, who, on all occasions, seemed desirous of quarrelling and finding fault with him. One day, M'Pherson and Baker, the superintendent of the ship, had a difference about some trifling affair, when Campbell, very improperly, interfered on the part of the latter; words ensued, and Campbell came on deck calling out that his mate had mutinied against him, in his own cabin, and ordered the serjeant of the guard to put him in irons, and, at the same time, ordering the flag to be hoisted, and a gun fired as a signal to the other ships. These orders were instantly obeyed, and, on one of the ships bearing down on the transport, the captain, to the astonishment of all on board, called out *I have discovered a mutiny in the ship, in which some of my principal officers are concerned.*"

In the circumstances in which Mr. Skirving, and his companions in exile, were now placed, this event was calculated to excite in their minds the most lively apprehensions for their personal safety and reputation; which to them, from the cause in which they were now suffering, was, perhaps, more dear than even life itself. And, from what they had witnessed in the conduct of their enemies, they had reason to think, that they would not feel the least hesitation in making them the victims of a pretended conspiracy; while, in their present circumstances, the clearest proof of their innocence would avail them nothing. The impression that such an advantage would be taken of them, had strongly impressed Mr. Skirving's mind from the commencement of the voyage, and had led him, on all occasions, to avoid conversing with any of the convicts, and to keep himself as much as possible within the observation of the officer in command of the ship. Before leaving England, when they were removed from the felons' hold, a convict of the name of Grant was removed along with them; and, though this man's conduct was offensive to the officers, and though he kept a girl, in violation of a strict regulation respecting convicts, still he was allowed to continue in the part of the ship allotted them; an indulgence which, it is presumed, would not have been extended to a person in his circumstances, without a special reason for it. Besides this individual, there were others in the ship who appeared to be confidents of the captain's, but whose conduct gave them no title to that distinction. But we now proceed to state what occurred on board, after the astounding announcement of the existence of a mutiny in the ship. As there appeared no reason to conclude that such a state of things existed, as that announced by Captain Campbell, it was supposed, that in the heat of passion he had done it,

and that, on reflection, he would see the impropriety of having so acted. The character of the mate, also, who, as yet, was the only person implicated, placed him beyond the suspicion of guilt. It was, therefore, suggested that he should apologise to the captain for his conduct, and, with a view to this, Mr. Muir wrote a letter, addressed to Campbell, and requested M'Pherson to sign it. This M'Pherson refused to do, on the ground that he himself was the injured party. By those who supported the captain's statement, it was affirmed, that the object of the mutineers was to seize the ship, and, having done so, to kill him, and throw overboard all who should oppose them. After remaining in irons for some days, the mate was sent on board the Commodore's ship, and Campbell went in the boat along with him. Mr. Skirving, therefore, felt the greatest anxiety respecting the nature of the report he would make to the Commodore, of the state of the ship; as that report would be sent home, and if he, or his friends, were represented by it, as connected with the mutiny, it would prove a triumph to their enemies, and a cause of grief and unhappiness to their friends. On his return on board, therefore, he waited on him, and expressed his anxiety, with regard to the nature of the report he had made to the Commodore. Campbell assured him that he might feel at ease on that point, as, in the report he had made, he distinctly stated "*that none of you four gentlemen are connected with the mutiny.*" As he had lived on terms of intimacy with the captain, that gentleman now seemed to consider it a matter of some importance to gain him over to the belief of the existence of a conspiracy to seize the ship. This he had repeatedly attempted, and, on one occasion, when Mr. Skirving was stating his reasons for not believing it, he got into a passion, and exclaimed, "but it is true, and I don't care a d—n whether you believe it or not!" Some time after this, the serjeant who commanded the party of military on board, came into Mr. Skirving's cabin; a visit which, he believed, that gentleman made him by the desire of the captain. He entered at once on the subject of the mutiny, expressing his conviction of the truth of the statements respecting it, and added, *one of you is connected with it.* But, at the same time, said, it is not you. To this Mr. Skirving replied, with respect to the last I am certain, but who is the first person of whom you speak? To this he answered, he was not permitted to give that information; but, being pressed to name the individual, he said it was Muir, and that they were in possession of a letter, written by him, which fully established his guilt. Immediately on the serjeant's leaving him, Mr. Skirving went in quest of Mr. Muir, that he might apprise him of the information he had thus obtained. Having stepped on deck, he found the captain and a Mr. Boston, warmly engaged in conversation, and soon perceived that it related to Muir. The serjeaut having communicated to Mr. Boston the story of the letter, that gentleman had learned that the letter which was represented as containing a proof of Mr. Muir's guilt, was no other than the letter written by Mr. Muir, which the mate refused to sign; the copy of which had fallen into the hands of Campbell, and he was base enough to employ it for the purpose of getting those in the ship, whom he knew, from the influence he had over them, were not likely to make inquiries respecting its contents; and, at the time Mr. Skirving came on deck, he (Mr. Boston) was representing to him the impropriety of his conduct in making such a use of that letter.

Having listened for some time to their conversation, and perceiving an opportunity of introducing himself, he stepped forward, and said, that he was bound, in duty, to declare, that Serjeant Raddish had given him the same information. Mr. Muir, on being made acquainted with this insidious conduct of Captain Campbell, instantly demanded that the letter should be produced, and publicly read,—a demand with which the captain showed the greatest reluctance to comply; and it required not a little firmness, on the part of Muir, to obtain for himself this simple act of justice; but he succeeded, to the deep mortification of his enemy.

This incident affords the most convincing proof, that, notwithstanding Campbell's professions with regard to the report he had made to the Commodore, as noticed above, that it was really his intention to involve in the odium of being connected with the mutiny some of the four gentlemen whom he, but a short time before, had professed to absolve from all connection with it; but in what we have yet to record, the duplicity and cunning of this man will be more fully illustrated. At his desire, Mr. Skirving had led the worship in the ship; and, on the Sunday morning after what we have now related occurred, he came to him, and, in the most courteous manner, requested him to direct his thoughts to a subject suited for the occasion, as no interruption would be given to the usual practice in that matter. The day was, therefore, solemnized by the observance of Divine worship. Next morning, while Mr. Skirving was taking the air on deck, he walked up to him, and, after conversing a little, requested him to go down and take breakfast with him, assigning as his reason for the invitation, that, having obtained every information respecting the mutiny, he was anxious to inform him of it. Accordingly, after breakfast, he said that he had discovered the whole plot, and took great credit to himself for having saved the ship. He affirmed, that the intention of the mutineers was to have killed him and Mr. Baker, and having seized the ship, to have thrown overboard any who made resistance; but added, he having employed a number of the convicts as spies, and assured them, that if they acted faithfully, they should be set at liberty on the ship's arriving at Sidney, I have obtained, through them, an account of the whole affair. In making these statements, he spoke with so much apparent feeling and concern respecting the mutiny, as perfectly astonished Mr. Skirving. But during the whole of the conversation, he never once uttered a word, or employed a mode of expression, which even, in the most distant manner, was suited to convey to his mind the idea that he was in the number of those implicated. In the course of the forenoon, a boat from the Commodore came alongside, and an officer came on board. Mr. Skirving had retired to his cabin, but had not remained long there, when he was ordered to come on deck in rather a formal manner. He immediately went up, and the reader may judge his surprise, when he heard the surgeon of the ship reading a list of the names of those accused of being connected in the mutiny, including Mr. Palmer and himself; and they were all instantly ordered into close confinement. The place assigned to Messrs. Skirving and Palmer was a hole in the steerage, the dimensions of which were only 6 feet by 5. The steerage, it is well known, is that part of the ship to which all have access. To be confined in such a narrow space, and night

and day placed within the hearing of the most unbecoming conversation, with the corresponding conduct of the ruthless beings who generally resorted to the steerage, were to these gentlemen very painful additions to the restraint of confinement. They had reason also to believe, that this place was allotted them for the very purpose of allowing their enemies an opportunity of finding something in their conduct which might be made a ground of accusation, as they observed, that, on one pretence or another, some of the captain's spies remained close by their place of confinement almost night and day. The orders issued by Campbell shows that it was the object of this petty tyrant to impress all with the belief, that their offence was one of great magnitude. A sentinel was placed at the door of their cabin; none were permitted to speak with them: and so rigorously was this order enforced, that Mr. Muir having requested the loan of a book from Mr. Skirving, was barbarously knocked down. They were denied the use of liquor, on pretence of having given the sentry drink. These orders were written on a board, and hung over their cabin-door, and, what appears rather ominous, concluded with these words: "*Will any now dare to believe them innocent?*"

To obtain evidence to convict the accused, appears now to have been the object of Campbell in all his movements. But we shall not here harrow up the feelings of the reader by a detail of the atrocities which he perpetrated on the unfortunate victims of his power in order to compass his object; we shall only state, that having employed both promises and threatenings to induce the convicts to give evidence against the accused, and failing even with these persons, who seem to have had sufficient virtue remaining in them as made them shudder at the foul offence they were thus incited to commit, he had recourse to the most unjustifiable cruelties. The persons accused along with Messrs. Palmer and Skirving he exposed night and day on the poop; and having fixed on certain of the convicts, both male and female, he accused them with being acquainted with the designs of the pretended conspirators, and had them severely flogged to extort a confession. To such an extent does he appear to have carried this iniquitous proceeding, that had he persisted a little longer, it is more than probable he would have produced a mutiny, the existence of which it would have been no difficult matter to prove. But all his attempts to procure evidence were unsuccessful.

After remaining for several weeks confined in the manner described, a kind of trial or investigation took place, and as no evidence could be produced to implicate Messrs. Palmer and Skirving, they were relieved from the painful situation in which the malignity of their enemies had placed them.

To avoid extending this memoir to an inconvenient length, we have, in the preceding account of the pretended mutiny, confined ourselves to a narrative merely of the circumstances which more immediately relate to the subject of it, and Mr. Palmer. We are convinced, however, that in stating these, our readers will at once perceive that the object of Campbell, was to have involved the sufferers, in the cause of reform, in the odium of having connected themselves with a conspiracy. Of this, his insidious conduct in the case of Mr. Muir, who was evidently the intended victim, and whose place Mr. Skirving afterwards supplied, is a convincing proof. There is, besides, in Mr. Skir-

ving's letter to Governor Hunter, many things stated, with regard to Campbell's conduct, and that of his creatures in the ship, which, for the reason we have assigned, could not be introduced into the narrative. We shall, however, here state a circumstance which should not be omitted. It will be observed, that the first person who discovered the treachery of Campbell, in the case of Muir, was a Mr. Boston. This gentleman had received an appointment, in the civil department, in New South Wales, and was on his way to that colony. Campbell seems to have calculated on his support, in prosecuting his nefarious design, from the circumstance of the appointment he had received. But the conviction Mr. Boston had of the innocence of Muir, and the abhorrence he felt at the base disingenuity displayed by Campbell, did not allow him to rest satisfied, until he had exposed the odious machinations. For this piece of service, in the cause of humanity, and common honesty, Campbell had the assurance to chide him, and intimate, that the *kindness of government, in granting him the appointment he now held*, should have prevented him from interfering in the manner he had done; and, we may add, that during the remainder of the voyage, he did not fail to make Mr. Boston feel the effects of his displeasure.

Mr. Skirving, in his letter to Governor Hunter, considers Campbell's conduct towards him, and his fellow sufferers in the cause of Reform, as arising from a desire to ingratiate himself with those in power; and the reasons he gives for this opinion are:—Campbell knew, that to these persons, they were, from their political principles and conduct, particularly obnoxious; he knew, also, that their greatest enemies had never dared to charge them with any thing, in conduct, approaching to moral turpitude; and that, in consequence of the severity exercised in their case, the public feeling was now becoming more and more strong in their favour, and the cause in which they suffered. And hence, he supposed him to have concluded, that by convicting them of a real act of sedition, he would secure to himself the favour of ministers. These, we admit, are forcible reasons in support of the opinion, but are inclined to think, taking all the circumstances into consideration, that Campbell was merely the executor of a plan, concocted and arranged previous to his leaving England; which had for its object, to destroy the reputation, if not to deprive of their lives, these unfortunate victims of a cruel and relentless despotism. And, in taking this view of the matter, we are supported, most assuredly, by every incident in the history of the policy of the Pitt administration, with respect to the friends of liberty, at that period.

The Surprise arrived at Port Jackson on the 25th of October, having been nearly six months on her passage from England. After being so long on ship-board, it afforded the exiled Patriots great pleasure again to set foot on *terra firma*, though in the land where they were destined to remain far from home, and all its endearments. On landing, they were accommodated with houses, in the camp, and, as these were contiguous, they enjoyed the pleasure of frequent intercourse; which to persons in their peculiarly distressing circumstances, tended greatly to ameliorate the miseries inseparable from a state of exile.

The first object to which Messrs. Palmer and Skirving directed their attention, after their arrival in the colony, was to obtain an in-

quiry respecting the treatment to which they had been subjected while on board of the transport; and, having stated the circumstances of their case to the Governor, his Excellency ordered an investigation into the whole of the transactions relating to the pretended mutiny on board of the Surprise: the result of which was a complete exculpation of these gentlemen from the charge of insubordination while on board of the transport; and, at the same time, furnishing them with evidence to enable them to prosecute the master and superintendent of that ship. This they resolved to do, and accordingly had their case thrown into a legal form, and sent home to a legal practitioner, with instructions to proceed against Campbell and Baker, on their return to England; but we suppose they did not return.

The subject of this memoir, from that equanimity of mind which, throughout all his sufferings, had never deserted him, was enabled to take a calm and unprejudiced view of this distant country, and to act with that prudence which became a person situated as he now unfortunately was. In all newly-settled countries, the occupation of a farmer is, of all employments, at once the most useful and most easily got at; and, having past the greater part of his life in the practice of agricultural employments, for which he always felt a strong predilection, he fixed on this as an occupation, which would enable him, if successful, to pass a lengthened residence in the colony, with advantage to himself and his family. He therefore, with this view, purchased a farm; and, of this transaction, he thus writes to Mrs. Skirving, under date the 12th of December, 1794:—"I am already an heritor and freeholder in New South Wales; I have purchased a farm, crop, and work, already done upon it, valued above £80; I have also got all upon it, man, woman, and beast. I am not, however, in the slave trade, be assured, but shall treat them as brethren, if they behave well: I have also the servant allowed me by the Governor, and a lad of the name of Moor, belonging to Edinburgh, a free man, who was left here by accident some time ago, whom I found in a very destitute condition. In remembrance of you, I have given the name of New Strathruddie to this far away farm, and, I trust, if I get any tolerable assistance sent me, to make it soon of more value than the old."

This farm Mr. Skirving commenced cultivating with every prospect of success; and, had he lived and received a little assistance, sent out in articles of commerce, which, from the exhorbitant prices paid in the colony for every article of European produce, would have yielded him a large profit, it is not to be doubted, that the hope he expresses of soon rendering it a valuable possession, would soon have been realized; but it pleased a wise and inscrutible Providence to order it otherwise. He was seized with dysentery, a very fatal disease in that climate, and, for the purpose of obtaining medical aid, left the country, and went in to his house in the camp, where he died on the 16th of March, 1796. We give the following copy of Mr. Palmer's letter to Mrs. Skirving, communicating the melancholy event; only premising, that excepting the information contained in it, Mrs. Skirving never received, from that quarter, any further account of her lamented husband's decease, nor any information in what manner the property he left was disposed of.

"My dear Madam,

"It is with infinite concern that I am obliged to send you intelligence the most afflicting. Prepare, my dear madam, before you read farther, for the worst. Your excellent husband is at rest from his persecutors; he has fallen a sacrifice for the good of others. He told me, on his death-bed, that he never recovered the want of proper sustenance during the time of the short allowance, or more properly famine; but this he carefully concealed from his friends, so that Mr. Muir, who used to go into the country to see him, thought he lived in great plenty.

"He was seized with a dysentery, fatal in this country if neglected. Alas! he most imprudently concealed it from us for one month; he then came into camp to his house, next door to ours, for the sake of better attendance and medical advice. Mr. Balmain, the principal surgeon of the settlement, and the only one at that time for this district, never paid him a single visit, but our excellent friend Mr. Ross, surgeon of the Reliance, in spite of all the obloquy attending it, or the prejudice it might do his interest, attended him twice a-day. Be assured that every possible care and attention was paid him by me, Mr. and Mrs. Boston, and Ellis, who lives with me. He had soups, wine, spirits, tea, and every comfort, which friends, money, and this island could afford.

"Three days before him, died the accomplished Mr. Gerrald, of the same disorder. In the month of February preceding, Mr. Muir went off in the Otter, Captain Dart, of Boston, New England.

"My dear Madam, I must leave you to the consolation of religion, and the well-grounded hope your excellent life affords, of seeing him again. Wishing you every blessing,

"I am yours most truly,

"Thomas Fyshe Palmer."

In this memoir it has been our object, faithfully to detail the part Mr. Skirving acted in the political transactions of 1793, and for some time previous to that period, and the sufferings to which he was most unjustly exposed on that account. We have, therefore, in the course of writing, studiously avoided saying anything respecting his moral or religious character. We feel persuaded, however, that the intelligent reader, in perusing this imperfect sketch of his political career, will not fail to admit the justness of the character given of him by his contemporaries, "*a tried patriot, and an honest man.*" In his disposition, he was unassuming, social, and kind-hearted. Under the influence of the purest benevolence, he, with ardour, pursued every object which appeared calculated to promote the happiness of his fellow-men. And under the influence of the same principle, guided by a thorough conviction of the importance of the end to be attained, he proceeded calmly, and firmly, in the course he had marked out for himself; encouraging those who, with himself, sought the attainment of the same object; yet modestly retiring to give scope for the exercise of the talents of others. As a Christian, he was distinguished for sincerity and uprightness, affording to all who knew him a pleasing proof of the influence on his mind of the all-important truths of divine revelation, to the study of which he regularly devoted a portion of his time; and in consequence of the attainments acquired by the study of divine truth, he was recognised by those with whom he walked in religious

fellowship, as a person well qualified to manage their religious concerns; and we have no doubt that there are still living, some who can bear testimony to the services he rendered to the Secession Church, as well as to the esteem and respect in which he was held by many of her most eminent teachers, and other distinguished members of that connection. But, while he held consistently the principles of the Secession Church, he did so with the utmost liberality of mind towards all who differed from him. The circumstance of a doctrine being popular was, with him, no proof of its truth, nor its being regarded as a novelty, a proof that it must be false. "Try all things, hold fast that which is good," was the rule by which he was uniformly guided in these matters.

In concluding the view we have now given of Mr. Skirving's character, we cannot deny ourselves the pleasure of quoting the high compliment paid to him by his friend and fellow martyr in the cause of reform, Mr. Palmer, and especially as it expresses most eloquently what we have yet to add on the subject. He says, "Indeed, one would think it impossible for any man, with the least remains of virtue, to be an enemy to Skirving; his benevolence is ever active, no injuries can restrain it, he cannot deny the most worthless suitor: very few people more successfully form themselves according to the maxims of Jesus of Nazareth."

Soon after her husband went abroad, Mrs. Skirving left Edinburgh, and took up her residence in her native place, Kirkaldy, where she lived in the greatest seclusion, and at last, in the month of October, 1801, fell a prey to disease, induced, there is every reason to believe, by the sufferings she had endured.

The following letter, addressed to Charles Grey, Esq. (the present Earl Grey) contains a good account of the Convention in Edinburgh, and of its correspondence with the Friends of the People, in London:

Frith Street, Soho,
Wednesday Evening, June 11th, 1794.

Sir,

In compliance with your desire of being accurately informed what correspondence the Friends of the People in London have had with the Convention in Scotland, or with Mr. Skirving, its Secretary, I send you the following particulars, which contain not only the substance of the communications with the Society, but also of those I have personally made, and of the whole subject, as far as it has come within my knowledge.

The first Convention at Edinburgh, in favour of Parliamentary Reform, consisted exclusively of Delegates from the different Societies of the Friends of the People in Scotland. By their minutes they appear to have declined communicating with any society which did not take that title. They first met on the 11th of December, 1792, and sat only three days. Their name of "*Convention*" was familiar to meetings in Scotland; and they stated the object of their institution to have been to consolidate the common strength of the Friends of Reform in that part of the country; which is the very same reason given for the establishment of a similar body, for a similar purpose, in London, in 1780.

In their last sitting, on the 13th of December, they voted that certain resolutions should be sent to the Friends of the People in London:

which, together with the letter inclosing them, I herewith transmit. This was the only communication made with that body. The answer to it stated, that by some accident the resolutions mentioned in the letter were not inclosed; but that the Society had seen them in the newspapers: it also assured them of the approbation and concurrence of the Friends of the People in London, according to the terms of their several declarations. I afterwards received printed copies of its proceedings, in December 1792 and May 1793, and could not perceive any thing in them that was not strictly confined to a reasonable Parliamentary Reform.

On the 2d of May 1793, after having sat three days, it adjourned till October. Many gentlemen of great respectability and of large property were members of it. The Magistrates of Edinburgh did not molest, or, far as ever I could learn, even blame it. And when, in the House of Commons, the question of parliamentary reform was so fully discussed, on the 6th and 7th of May 1793, in which the subject of a national convention was introduced and reprobated, the slightest notice was not taken of the convention at Edinburgh, though it had assembled in the preceding December and published its proceedings, and had again assembled, seven days before that debate, for the purpose of collecting and forwarding many of the very petitions in favour of reform, which were then under discussion;—a business which it publicly avowed, and which many days prior to the debate was published in the London newspapers.

The next letter received from Mr. Skirving, so far as I recollect, was in the middle of October 1793; it was signed by him, as secretary to the society of the Friends of the People in Edinburgh, and not as secretary to the convention. It solicited the society of the Friends of the People in London to send delegates to the ensuing convention of the Friends of the People at Edinburgh, appointed for the 29th of the same month. I shewed the letter to two or three members who happened to be then in town, and they agreed with me that I ought to send an answer to the following effect:—Acquainting Mr. Skirving, that on a subject so important as that of sending delegates to the convention at Edinburgh, it would be necessary to consult the society; but that the shortness of the time rendered it impossible to give proper notice, first for calling the committee, (which was not then sitting, and which alone could assemble the society,) and then for calling a general meeting; the shortness of the time I represented as the more objectionable in that season of the year, when very few members were in town. I, however, told him that I had consulted some members on the subject, and they had agreed with me, without deciding on the propriety of the measure, that the notice was insufficient, and that therefore his request could not be complied with. I added, that it was highly probable some members of the Society, then in Scotland, would be present, and that whatever they agreed to I had no doubt the Society would confirm. I said Lord Lauderdale might perhaps attend. No person in London saw this answer after it was drawn up. It was entirely of my own writing; and I think it was stated in it that it was merely a private personal communication from myself.

I afterwards understood that the Convention of Delegates from the Friends of the People in Scotland assembled accordingly on the 29th of October, and sat, as they had done at their former meetings, two or three days. They confined themselves strictly, and I believe sin-

cerely, to the business of Parliamentary Reform, and then adjourned for several months. Soon after their adjournment, however, the Delegates from the Societies in London and other parts of England arrived. The Convention then re-assembled on the 19th of November; and it was not till after this period that it assumed the name of The British Convention instituted for the purpose of obtaining Universal Suffrage and Annual Parliaments, or adopted any part of the language or conduct which (with what justice I do not pretend to determine) have exposed it to so much animadversion and censure.

This is the whole of the correspondence, as far as I can recollect, that passed between the Friends of the People in London and the Convention, or Mr. Skirving, at Edinburgh. The correspondence that took place between Mr. Skirving and myself could not, from circumstances which occur in my mind, be very important. He sent me the printed minutes of the Convention, and I sent him the publications of the Friends of the People in London. The last time I wrote to him was about the end of October, acknowledging the receipt of some copies of Mr. Muir's Trial; and I perfectly remember concluding my letter with a hope that the Delegates from the Societies in London, who had then just departed to meet the Convention in Edinburgh, would not import into Scotland any of that intemperate spirit which had brought blame on the moderate and sincere Friends of Reform in England: I hoped that the Friends of the People in Scotland would continue to persevere with that prudence and moderation in the cause of Parliamentary Reform, which had so justly obtained them the approbation of the Friends to the measure in England.—This letter, I suppose, displeased Mr. Skirving, for he never after wrote to me, nor did I write to him.

Having now detailed the whole of the correspondence, to the best of my remembrance, between the Convention and the Friends of the People in London, and between Mr. Skirving and myself, I think it my duty to observe, without presuming to give my opinion on the conduct of the British Convention, that a material distinction ought to be drawn between it and the Convention of the Friends of the People. The proceedings of the latter, at their meetings in December 1792 and May 1793, appear to me to have been such as the most timid Friend to Parliamentary Reform could not object to. Their proceedings at their meeting in October were, I believe, of the same description. When they assembled with the delegates from England, indeed, another system seems to have been pursued. Their meetings had always sat only three days at a time, and they were settled to be held only twice a-year. But after it became the British Convention, they then, and not till then, entered into all those measures at which the Magistrates and Government have expressed so much alarm; and it was not till then that they even declared decisively in favour of Universal Suffrage and Annual Parliaments; it is therefore extremely material to remark, that no blame has yet been thrown on the Convention of the Friends of the People at Edinburgh; and that between the *British* Convention and the Friends of the People in London no correspondence of any kind ever took place, nor even any sort of communication between Mr. Skirving and myself after this institution.

I have the honour to be, SIR, your most humble obedt. servant,

DANIEL STUART.

To CHARLES GREY, Esq. M. P.

TRIAL

OF

WILLIAM SKIRVING,

FOR SEDITION.

THE members of the Court of Justiciary assembled precisely at ten o'clock in the forenoon of the 6th January, 1794. Mr. Skirving appeared, and placed himself at the bar. His Majesty's advocate, for his Majesty's interest, was then, in the usual form, called against the pannel. Mr. Skirving was desired by the Lord Justice Clerk to listen to the indictment against him, which was to be read immediately by the Clerk of the Court. The indictment charged Mr. Skirving with circulating seditious and inflammatory handbills, composed by Thomas Fyshe Palmer, and printed at Dundee, and of being a member of illegal associations, styled, "Friends of the People," and "British Convention." On its being read,

LORD JUSTICE CLERK.—What do you say to this, Mr. Skirving; are you guilty or not?

Mr. SKIRVING.—I am conscious of no guilt, my lord.

LORD JUSTICE CLERK.—Have you any counsel for you?

Mr. SKIRVING.—No, my lord, I have the misfortune to have no counsel whatever.

Lord ESKGROVE.—Mr. Skirving very well knows that if he had wished for counsel, and had applied to the Court, he might have had counsel.

Mr. SKIRVING.—Such is the apprehension of your prejudice against the Friends of the People that is gone forth, that an agent before the court said, it was almost giving up his business to be seen doing any thing for the Friends of the People; and therefore, I thought I would trust to the court, and do as well as I could without counsel.—It is very unfortunate that I have had so little time to prepare for my defence; however, conscious of innocence, I must trust myself in the hands of the court, and make the best defence I can.

Lord ESKGROVE.—We know very well, that both the agents and the court have so much compassion, that they never refuse to assist any pannel.

LORD JUSTICE CLERK.—The meanest subject that comes to this court, may have counsel if he applies for it. Do you wish to have counsel now?

Mr. SKIRVING.—I should be very glad of the assistance of counsel, but it would now be taking any gentleman at unawares.

Mr. SOLICITOR-GENERAL.—My lords, as the pannel has stated no particular objections to the relevancy, or to the form of the criminal libel exhibited against him, perhaps in point of form the public prosecutor might dispense with saying any thing at all upon the subject; at the same time, in this case, I judge it may not be improper, for the sake of the jury who are to try this case, before the proof is adduced before them, to make some observations upon the nature of the charge contained in this indictment. And, my lords, I would the rather at this period of the cause, because I speak under the correction of your lordships; because, if I state any thing improperly, if I draw any thing out of this indictment that is not agreeable to law, your lordships, I know, will correct me.

My lords, the general nature of the charge, exhibited against this pannel, is a charge of sedition, with regard to which, my lord, it is unnecessary to say anything. My lord, unfortunately we live in times when it is unnecessary, in this criminal court, after what has passed, to say a single word, either with regard to the nature of sedition, or with regard to the mischievous tendency of it. Your lordships have repeatedly delivered opinions upon that subject, and therefore it is unnecessary to say anything upon it. The particular acts of sedition, charged in this libel, consist of two branches:—The first is a charge of circulating, and distributing a seditious libel: it is not necessary to trouble your lordships upon this libel; it will be before the jury; and, I think it is impossible for any person to have a doubt, that it is seditious, and seditious in the highest degree; and it is only necessary to add, that this paper, the circulation of which is charged upon this pannel, has been already adjudged by

two of your lordships to be highly criminal; which was followed up by the conviction and judgment of Fyshe Palmer, who was charged with being the author of it, this pannel being charged with the publication of it.

My lord, the second branch of the charge relates to the proceedings of what is termed a British Convention, in which this gentleman is charged with taking a very principal part. Now, with respect to this, taking the facts as they are stated upon the face of the indictment, I say, that the meeting itself,—that the whole proceedings of that meeting were, from first to last, illegal, seditious, and such as cannot be tolerated in any established government. My lords, this will appear, by taking a view of those parts of their proceedings, and operations, which are stated upon the face of the libel.

Let us begin, in the first place, with the manner in which this meeting is called together. The libel states, that it was called together by an advertisement published by this gentleman, Mr. Skirving: in the indictment it is engrossed, and has been read to your lordships. There are two things in it of which I beg leave to take notice. In the first place, the people are called upon, to demand with the firm and energetic voice of justice, the peaceful restitution of their rights,—which is just, in other words, telling the people that they had been deprived of their natural rights; and that they are now called upon to meet in this Convention, to obtain the restitution of that which had been unfairly taken from them: it further contains a menace held out to the most respectable inhabitants of this country; a menace is held out to those gentlemen who a twelvemonth ago associated themselves to maintain the lawful possession of the government, in opposition to these illegal associations. "Had certain gentlemen countenanced this association last year, instead of pledging their lives and fortunes to prompt a corrupt and ambitious ministry to engage in a war, which could only bring guilt and ruin on the nation, we might have been still enjoying uncommon prosperity, and a happy understanding amongst ourselves as brethren: and now, if they will not manfully retract that very impolitic step, and immediately join their influence to the only measure which can prevent further calamity, if not anarchy and ruin, their pledge may be forfeited, and the Friends of the People will be blameless." Their pledge may be forfeited—that is to say, their lives are to be forfeited, and the Friends of the People will be innocent. This is the manner in which the meeting is called together, and a menace held out to nine-tenths of the inhabitants of Great Britain; a menace held out to all the respectable people, who had anything to lose by scenes of anarchy and confusion. Upon this advertisement, the libel states "that a meeting did assemble, and that the parties having at first assumed the name of the General Convention of the Friends of the People, and having thereafter presumptuously and seditiously arrogated to themselves the name of *The British Convention of the People associated to obtain Universal Suffrage and Annual Parliaments;*" British Convention of the Delegates of the People; thereby holding out that they were the representatives of the inhabitants of Great Britain—nothing more false,—nothing more seditious; the people of Great Britain, we have reason to be thankful, are represented in Parliament. The very name of British Convention carries sedition along with it; it is assuming a title which none but the members of the established government have a right to assume. And the British Convention, associated for what? for the purpose of obtaining universal suffrage; in other words, for the purpose of subverting the government of Great Britain; because, I will take it upon me to affirm, that universal suffrage is an idea that never entered the head of those who framed the constitution, those who laid the foundation of that happy constitution under which we live; nor was it ever maintained, or ever thought of, by any body else.

My lord, I say it would be such an idea, that, if it was once adopted, would be at once declaring that the constitution of Great Britain is at an end; an idea that our ancestors never thought of, and never was adopted in any country, ancient or modern, at least in any government of the extent of Great Britain it was never tried, except, indeed, in one instance—a modern experiment, and one, which I should have thought, that no nation in the world would choose to repeat. I mean the experiment made by France.

My lord, having assumed this name, which I say carries sedition upon the face of it, they proceed, as is stated in the indictment, and in the whole of their proceedings they assume the names, and the language of the French convention; they have a convention; they have primary assemblies, they have the name of citizens,

which the members of the society commonly pass by,—they have committees of finance, of instruction, of organization; and they date their proceedings, in the first year not of the republic indeed, but of the British Convention. In short, we find them constantly departing from the language of this country, and adopting foreign language; which, when connected with those scenes that it has produced, shew a wish to adopt a model which I am not a little surprised that any person in this country could have thought of. Indeed, this very circumstance, connected with what has happened in another country, appears to me so strong, that, had not our information been most strong and pointed, I should not have believed it possible, that any set of men could have held meetings that were, if I may use the expression, consecrated to mischief; using a phraseology which laid the foundation of those scenes of anarchy,—those scenes of rapine,—those scenes of bloodshed, of cruelty, and barbarity hitherto unknown in the world; which have desolated that unhappy country, and disgraced it among the nations of the earth. I say, I could not have believed, that, in this country, any man, or set of men, with those scenes before their eyes, for, I say, not one of them can be ignorant of what is going on in France,—I say, with this awful memento before their eyes, that they should, notwithstanding, have chosen to form themselves upon that wicked model. I can only see one excuse, and the pannel may plead that, and satisfy the jury of it, that it was done with a good and beneficial purpose; that he and his associates, desirous to check that tide of sedition in this country tending to alarm the sober-minded people, that they, on purpose, assumed this language, in order to shew, that they had now thrown off the mask, to shew plainly what they were pointing at, thereby to disgust and alarm every sober, every thinking, rational person; if the pannel can prove that this was his intention, that may be a very good excuse; but I say it is impossible that any other apology, or any other excuse, can be framed for it.

Then, my lord, the libel states some particular motions and proceedings of this assembly, particularly a motion made by citizen Callendar, directed to an event which they saw might happen; namely, proceedings in parliament to put a stop to their meetings. Citizen Callendar's motion was, that notice should be immediately given to the delegates; well, what follows?—a resolution that they shall be called a convention of emergency. When the proof comes before the Court, they will see what those emergencies were; one of the emergencies was in case a convention-bill should be brought into parliament; and another, that of a French invasion happening. In either of these cases, this convention of emergencies was to take place, to assemble together; and what is more extraordinary, the place of meeting is to be a secret among themselves; a committee of secrecy is to be appointed, of which Mr. Skirving is a member; which is to be kept secret from the *world and everybody else* but the committee. Does it need language to express what this means, that this convention is to meet together, and in a place where no person is to know where they meet?—is it possible for any construction to be put upon this, but that it was in order to prevent any measures being taken to stop their meeting, which were contrary to law, and could not be tolerated in any country? And why should this matter be kept a secret if it was only to petition parliament for a reform? What occasion was there for secrecy and hiding themselves in holes and corners? I say this committee of secrecy and this convention of emergencies stamps sedition upon the whole of the proceedings.

My lords, I shall have only one other motion to take notice of, a motion made by Mr. Skirving himself. "That the delegates from the country, who may run short of money by the prolongation of the business of the convention, shall be supplied by the treasurer. That all the members, both of the convention and of the primary societies, should subscribe a solemn league and covenant." I am sure no words are necessary to satisfy your lordships that this was most illegal and most seditious.

My lord, those are the principal acts of this seditious meeting, which are stated in the libel, and to which the attention of the jury will be particularly attracted.

My lord, the indictment next goes on to state some particulars, with regard to the dispersion of this meeting, when the magistrate and sheriff found it their duty to disperse them; and you will find that after being so dispersed, they met again; another meeting is held at the cockpit, and there the magistrates also declared, they must not meet; upon which Mr. Skirving reads a paper, which is of a very invidious nature; it takes care to mention every thing that can put them in a passion;

it is just as if I had said every thing I could to put a man in a passion, and then desired him to be calm; telling the people, that to prevent them from assembling was an act of violence on the part of the magistrates. Such are the acts charged against this pannel, and which, I have no difficulty in contending, are most illegal and seditious.

I might plead before your lordships, that a meeting of this kind was seditious, illegal, subversive of government, *at every period whatever;* had such a meeting been held five years ago, when every thing was quiet in this country, I should have had no difficulty to prove it was seditious: but you will attend to the time at which this meeting was held, the law is always the same, immutable, but the crime is of that nature, that the circumstances of the time must operate very strongly; and what is a slight thing at one period, may be a very atrocious act at another; for example, to draw an illustration from what some of us may remember, supposing five or six years ago it had happened, that a few persons in Edinburgh, had assembled, put on white cockades, marched to the castle-hill, and fired a shot or two, I presume nobody would have thought at that period, that that was high treason, it would have been deemed a riot, and not high treason; but suppose the very same facts had happened in the year 1745, they would have amounted to high treason, and the persons would have been tried, found guilty, and suffered death as traitors; therefore I say, the complexion of the times speaks the intention of the parties, and if ever there was a period when a man was called upon to abstain from seditious practices, it is the present, when he has seen the misfortunes of a neighbouring country, when he has been warned by the king, in whom he has vested the execution of the law, having been warned by proclamations, warned by proceedings in every penal court in Great Britain, to abstain from every thing that looks like the appearance of sedition. I say, if at these times men are so perversely obstinate as to assemble such a meeting, it denotes a criminal intention much greater, than if the same things had happened at another period.

My lord, it is in vain for these gentlemen to say, (which is the language ostensibly held by these persons,) that their purpose was to petition parliament. I have no difficulty in admitting, what it is impossible to dispute, that every subject has a right to petition the king, has a right to petition parliament, and God forbid it it should ever be violated; but we all know, that a petition to parliament may be made a colour for much mischief; we all know what happened in our own times, about twelve or thirteen years ago, when a set of persons assembled in St. George's fields in London, what was their object? The ostensible language was to petition parliament for a reform of grievances, or for something *not so bad*, to prevent parliament from altering the law; they assembled as petitioners; and they concluded, with besieging the legislature, with insulting the members, and, in a few days, spread fire and bloodshed through the British empire. God be praised, there is now no danger, I hope, of any thing of this kind; but I mention it, to show your lordships what crimes may be committed under this pretence. I trust in God, that here there is no danger; and I trust that, at present, notwithstanding the spirit of sedition, which has gone forth, and been propagated industriously among the uninformed part of the community, the constitution is too firmly established upon the great basis of natural justice, of the common good and of liberty,—that rational liberty, which is compatible with a regal government, I say, it is too firmly established, and too strongly fixed upon the hearts of the people, to be shaken by such instruments as these. Although the government is not in danger, the attempt to shake it, though impotent, I trust, is not the less criminal,—is not the less libellous.

I have made these observations, in order that the jury, when the cause must go to proof, as no objection has been made to the relevancy, that they may be able to fix their minds upon those parts, which are the essence of the charge; and if I have misstated any thing, I am under your lordships' correction.

Lord Justice Clerk. — You have given us a very good commentary upon the indictment; but there is one part which you have not read, and I want to hear your commentary upon the words of it. "And now if they will not manfully retract that very impolitic step, and immediately join their influence to the only measure which can prevent further calamity, if not anarchy and ruin, their pledge may be forfeited; and the Friends of the People will be blameless."

Mr. Solicitor-General. — That, whatever mischief happens, the blame is not to be laid upon the Friends of the People, because they have so good a cause.

LORD JUSTICE CLERK.—I suppose the Friends of the People might cut our throats with impunity; they would not be blameable.

Mr. SKIRVING.—I should have been happy if the pleadings of relevancy had been before the jury. I think the jury are entitled to hear the relevancy, because the relevancy is a matter for the jury to consider; and the jury ought to be present, in order that no part of my cause be prejudged.

LORD JUSTICE CLERK.—They are all present in court.

Mr. SKIRVING.—But, they are not *in* court, my lord, nor upon oath; I am very willing, however, to say anything that I have to observe upon the relevancy, before your lordships; but, I certainly think myself bound to go over it again before the jury, after the oath of God is upon them. Not being accustomed to speak in public, I am not able to follow the Solicitor-General in the long speech that he has made; but I have thrown my thoughts together, and shall beg leave to read them to your lordships, from the paper in my hand, if I am permitted. In the meantime, I would observe, that I am not accountable for the acts of the convention; I am summoned before your lordships as an individual, and I dare say, the convention are able to justify themselves for what they have done, when called before your lordships, and will certainly justify themselves. In that point of view, everything that the Solicitor-General has said falls to the ground.—Anything that respects me, in this convention, I am ready to answer for; but I apprehend there is nothing laid against me, in particular, that is worth the noticing. The Solicitor-General thought it was unnecessary to say anything with regard to the major of the proposition in the indictment. I have a very different idea of it; because, I suppose no indictment is properly laid, unless the major of the proposition in the indictment answers to the major part of the proposition in the statute, upon which it is founded. In my indictment, the crime laid is sedition—what this transgression is, we are left to discover by an investigation of the several articles in the minor part of the proposition laid in the libel—that is to say, from the overt acts charged against me in it, so far as the pannel has observed in the indictment before this court. But, surely the prosecutor ought to have specified the crime as defined, in some one or other of the statutes to which he refers, and which are presently cognizable in this court; and in the transgression of which he wishes to prove that I have been guilty.

In the indictment, I am charged to compear in a court of justiciary, to answer for the crimes specified, &c.

Now, in the major proposition of the indictment, only one crime is laid, namely, sedition. Here you see crimes, not one crime, but crimes are said to be specified. Does the prosecutor intend to bring forward more than he has given me warning to provide my defence against? The court surely will never permit him to do any such thing. They will not permit him to take me at unawares with a single charge, more than what is laid in his indictment Now, this is sedition: and there is not a single thing more than sedition charged against me.

Sedition! I know not what the prosecutor means by sedition; for he does not attribute a single quality either of mind or action to it. I am not called on to declare any opinion of it; he only says "WHEREAS," &c.—and he says no more; surely whatever idea he has of sedition, yet after describing it as a crime so heinous, and so severely punishable, he never could intend, that the things charged in the minor proposition went to make up any such heinous crime, or indeed any crime whatever. Would it ever enter into any person's mind to suppose, that, acting in the capacity of secretary to a number of societies, my receiving a parcel of papers, according to the first charge in the libel, from one of these societies, and shewing them to a few of the persons entrusted with the business of the whole, in order that they might be able to give their opinion of them, when submitted to a meeting, was in any degree reprehensible? When the Fiscal, upon information of the Dundee address, got a warrant to apprehend me for my concern in it, I narrated to the Sheriff my whole concern in the matter, and he assoilzied me at once. But allowing that I had really been chargeable in the matter of the Dundee address, would it not be both ungenerous and unjust, after citing me as a witness on the part of the crown, carrying me to Perth, and inclosing me with the other witnesses a whole day, and after all, to bring me in as a party, upon the evidence of the very witnesses with whom I was so shut up, and consequently exposed to converse freely with them on the subject, being made to believe, that nothing I might then reveal, supposing I had been

criminally concerned, could ever come against myself?

It would be unjust in the court to admit such an unprecedented attack on any man; and it is hoped they will not indulge the public prosecutor in this—the more so as the whole of this business is to be brought under the review of parliament.

As to the next thing, the hand-bill by which some General Convention is said to have been called, though I know of no such meeting called by that bill: the prosecutor knows well, that he can neither instruct that I was the author, nor, in any degree, the publisher of it. And though I had been both, it is not possible for him to prove that I could be guilty of any crime in giving warning to my country of its danger, or in calling them, to demand, in a constitutional manner, rights which, it cannot be denied, have been wrested from them.

Much is averred in the indictment, with the design of criminating the convention; but upon the most vague grounds, I am ready to answer for the Association of the Friends of the People, and for all their proceedings from first to last; but at present I am indicted only as an individual. Let me be fairly indicted, as responsible for that convention, and I shall not decline to answer to any indictment; knowing well that the British Convention is fully able to justify its proceedings through me, or any other person charged in their name. But, upon no principle of equity, or justice, can any body of men, regularly associated, be condemned, in any court, if not legally present. The public prosecutor, as usual of late, has frequently, in this indictment, termed the Friends of the People, collectively and individually, seditious and evil-disposed persons; having purposes inimical to the happiness of the people, and to the peace and happiness as well as to the constitution of the country, and too plainly indicating the same rebellious maxims which have governed, and do still govern, the proceedings of the Convention of France.

That the British Convention, however, is a seditious and unconstitutional meeting, remains to be proved; and cannot be proved till the legislature declare them such; or until they shall be cited, tried, and condemned, according to law. Till one or other of these events, they are to be held, in this court, and in the opinion of the public, as a Constitutional Society, whatever the Lord Advocate may allege to the contrary. And, therefore, as the Friends of the People must be considered in this court a constitutional, legal, or allowable society, equally as any other society, (*presenting responsible persons of their number amenable to the laws of their country, for all their proceedings,*) everything averred against the British Convention, or their delegates, in my indictment, must go for nought in the present prosecution. For this same reason, and upon the same principle of justice, everything laid to my charge in this indictment, as said or done by me in the meetings of that society, falls also to go for nought, unless it could be proven that I did things unwarranted by the Association. In such case, if anything so done by me in their meeting, could be proven to be contrary to law, then, as in justice, I would be liable singly; but not till then.

To go into the prosecutor's views in this indictment, would be to unhinge the very constitution of the country, and nothing but the most palpable inattention to the fundamental principles of the British Constitution, or a seditious design to overturn it, could have dictated an indictment such as this which I now hold in my hand. Should such a proceeding be allowed, there is an end of liberty:—it would be a revival of the conventicle prosecutions with a vengeance. The Lord Advocate would only have to declare *any association of the people* a number of seditious and evil-disposed persons; and to get a jury to find some obnoxious person among them guilty; and then every meeting of the kind would be deemed illegal, and might be dragooned, as in the days of our fathers, without the round-about way of obtaining a declaratory Act of Parliament. He might next, for instance, declare dissenting meetings illegal, and of a seditious tendency.

If then, my lords, everything in this indictment, founded on the insidious and false assertions against the British Convention, falls necessarily to be expunged, and it must be expunged, unless you are determined to condemn me, at the expense of that very constitution, by authority of which you sit there this day; and which proposition I challenge all my prosecutors to impugn.—What remains in the indictment against me? Little, indeed, against me, but much to my credit and honour. These matters being left out, which it concerns the convention to vindicate, there remains nothing more charged against me, that I need to waste your time in animadverting on. No idea of guilt, or even of fault,

can arise in any man's mind on my conduct towards the civil magistrate, in the case referred to.

If the officer of a civil magistrate shall come to me and desire me to go out of my own house, I have a right to ask the reason; and if he can shew me no warrant, I may turn him to the door as an officious intruder. If his master shall deign to come himself, and make the same demand, I have a right to ask him his authority likewise, and to treat him worse than his servant, if he shew no authority; for no magistrate has any power but what the law gives him; and even that power, which the law does give him, he must likewise exercise, not as he chooses, but only as the law directs. The king's proclamation itself would be of no more force against me, than one from the provost of Edinburgh, and that would be nothing at all, unless warranted by law. Nevertheless, it is false, and altogether unfounded, that I any way contravened the proclamation of the sheriff and provost; though indeed I did consider it an unwarrantable, unconstitutional, and oppressive act, and which they had no authority to emit.—When apprehended by the warrant of the provost, and carried before the council, for, I knew not what, though I afterwards found that it was for my advertisement of the 10th, they were satisfied that my advertisement was for calling a different meeting altogether, from the meeting which they had taken upon themselves to proscribe; and they dismissed me, after giving me my dinner for my trouble.—The advertisement was as follows:

"*Friends of the People.* The General Committee of your Societies here, which should have met, as usual, on Thursday last, was necessarilly postponed till Thursday first, by reason of the sittings of the Convention. The British Convention being now constrained to adjourn to the place appointed for its meetings of emergency, the General Committee of the Friends of the People in and about Edinburgh, are requested to assemble in a house belonging to Mr. Skirving, their Secretary, formerly denominated the Cock Pit. As our meetings are perfectly constitutional, and our proceedings such as we dare avow, the Meeting will be held at 12 o'clock, noon. A full Meeting is entreated, for the purpose of adopting measures for defraying the expenses of the delegates while attending their duty in the Convention.

"W. SKIRVING.

"*Edinburgh, Dec.* 10, 1793."

Before coming away, the sitting Magistrate did indeed signify, that they extended their act of supremacy against that meeting, as well as against the British Convention; and this new declaration I promised to read to the meeting when assembled, and leave it to themselves to judge what regard was due to it. I went, accordingly, next day, to fulfil my promise. And, knowing the irritation of the people's minds at the bashaw-like treatment which had been given to the British Convention; and that they would not receive with respect the message I had received for them, in a hurry, before leaving my own house, I wrote the motion and proposal, which is narrated in the indictment, and which every person, not altogether blind with prejudice, must consider as a prudent proposal; and intended solely to prevent the collision of animosity, betwixt citizens and their magistrates.

When I came with my worthy friend Mr. Charles Brown, from Sheffield, with whom I had met accidentally, I found the meeting-house blocked up with an armed force; and seeing the people gathering fast, we made haste, for fear of tumult, *which extraordinary measures never fail to produce in a populous city*, to read, first the declaration of the magistrates, and then the above proposal. Upon the same being forced from me violently, but by whose orders I know not, we left them with it and set off. It was very fortunate we came off so soon; for the people were assembling from all parts so quickly, that their number would in a few minutes have been so great, as to embolden them to inquire and judge who were right and who were wrong in so shameful an affray. For this service to the magistrates, a number of town officers and soldiers were hurried after us, and seizing us, walking upon the street *peaceably*, and led us as condemned criminals, through the most public street, which, by the tumultuous running of the people from all quarters was completely alarmed, for every window was crowded with heads, the same as during the execution of a criminal. They were conducting us to the guard house, when Mr. James Laing, one of the town clerks, countermanded the procession to the council chamber. And after a consultation of the magistrates held with the sheriff, crown officers, and the assessors, we were dismissed simpliciter.

Now upon what data can guilt be charged against me from any part of the whole of this procedure? It is impossible.

Was the Lord Advocate ever so anxious to affix criminality upon me in these transactions, he would not be able. But although my guiltiness might be evident, what right has he now to establish it, after the magistrates have judged and acquitted me?

Upon the whole, then, if the matters charged in the libel, taking in the circumstances attending them, or taking them up simply in themselves, as laid in the indictment, amount to the crime of sedition, then sedition must be a very innocent thing indeed. Nay, if my conduct from beginning to end in this business is sedition, I glory in it, as the highest service of my life; and judge such sedition the highest virtue, because disinterestedly pursued to promote the public welfare. But in regard your lordships have again, and again, determined sedition to be the worst of all crimes, and including every crime destructive of society, and have again and again for this very crime inflicted punishments, in the eye of some even worse than death itself, I must insist, that as neither the crime itself, nor the law defining it and declaring its penalty are stated in my indictment, it is illegal, and ought therefore to be discharged—and, especially, in regard that possibly my jury, taking up the crime of sedition, as being merely the imprudently blaming the measures of administration, may think it very expedient and necessary to find me guilty, with a view, in the present circumstances of the country, to strengthen the executive government, and to cast the balance of power into the hands of those, whom possibly on other occasions they would check, but at present judge it proper to trust to their prudent and merciful exercise of discretionary power. Some juries of late are said to have acted from such motives; and we trust, for the sake of justice, they have repented that they left to others the judgment which they were bound, by the oath of God, to render to the accused themselves. And finally, in regard this high crime of sedition is said to be punishable by acts of parliament, as in the charge upon the indictment (and indeed no punishment can be inflicted by any other authority); it is therefore indispensibly just and necessary that these should be precisely specified: or that the libel, as so laid, cannot be proceeded on, but is altogether futile and irrelevant.

If the term Sedition be in any statute of our Law, then it will speak for itself. It will be the major of the proposition in the statute; and the act or acts of the minor, will sufficiently illustrate what the Legislature intended by the crime so termed; and if the acts, with the criminating circumstances of intention, described in the statute, or statutes, be the same as those with which the Prosecutor has charged me, I will necessarily be condemned. But if no such law is stated upon the authority of which alone this Court has power to act, and the Public Prosecutor will not point out any, in this case this indictment must be declared without foundation; for no libel is relevant, which is not a transcript of some statute, and that both of its major and minor. For, where no law is, there is no transgression. That is to say, the libel ought to state the crime generally—the law which makes it a crime—and then the overt acts, which being proved are the transgression of that law, or laws, and which therefore constitutes the general crime libelled.

None of these are done in this indictment; and indeed it must be evident to the meanest capacity, that this very unprecedented libel could not have any legal statute for its data and pattern; for what Legislature possessed of any political wisdom, could be so weak as afford a model for such a performance?

It would appear, that the Lord Advocate by one blow would cut off all communication of sentiment among the people. But surely your lordships will not support the doctrine, that exchange of sentiment among the people, or mutual discussion of argument in society, the natural exercise and employment of those powers bestowed by the Creator, is sedition, or any sort of crime! Association is the natural inheritance of the brute creation; and would the Lord Advocate deny the blessing to his fellow-citizens? And if this privilege cannot be denied to any, why would he affix guilt to that mode of exercising the privilege, which his brethren think best adapted for the purposes, for which it is vouchsafed by the Creator? It is an observation which I shall never cease to make, when I have opportunity, that the grand political consequences of the state of slavery, and that of liberty, or native effects of their opposite principles, are these: namely, That arbitrary tyrannical power separates the man from his brother, and infuses the selfish, unfeeling principle more and more in the heart; but the principle of liberty, that true principle which Christianity implants in the soul; the principle of liberty which Christ has restored, and

by which he makes men free, is the loadstone which draws souls together; and establishes the social bond which is the source of all morality. And accordingly we are assured, by a testimony which cannot deceive, that, as a certain token of the approach of those halcyon days, which we hope for, the influence of the uniting principle shall be remarkable. It was the signal and the mean of our fathers' deliverance from popish domination. Its effects are now more wonderful; and, being in the present case altogether voluntary, and less constrained by party influence, promises a still more glorious deliverance: a deliverance, not from one tyranny to embrace another, but a deliverance from the principle of tyranny itself; and which will establish the love of mankind. You would do well therefore not to be found counteracting the work of Christ in the earth. It may be the day of his coming, which was to be thus ushered in: "Then they that feared the Lord spake often one to another, and a book of remembrance was wrote for them that feared the Lord, and thought upon his name."—It may be the day, the awful "day that shall burn as an oven; and all the proud, and they that do wickedly, shall be stubble." Have they not been stubble in a neighbouring country? And should not you be instructed by the striking lesson before your eyes? If the Public Prosecutor, then, cannot invalidate these objections which I have stated against the relevancy of the libel, and you are satisfied in your own minds, 1st, That as I cannot be tried upon accusations made against a long allowed Society, which has not as yet been tried, and legally convicted, unless I had been cited before you as the proper and ostensible representative of that Society; therefore the present indictment against me is illegal, and must be dismissed. 2d, That it ought to be laid aside; because neither the crime, in the major proposition of the indictment, nor the acts charged against me in the minor, are instructed to be referable to any statute, cognizable by this the Court of Justiciary. And, 3dly, That though you might think the Jury intitled to proceed in this trial, upon the idea which they must have, in their own minds, of the word Sedition; yet, as they know not the idea which the Law Judges have in their minds of this crime, no statute being libelled on, therefore by proceeding they might be guilty of the grossest injustice; because they might find me guilty of what they would call sedition; and their idea of sedition being very different from that which the Lords of Justiciary have affixed to it in their minds, viz. that it is the worst of all crimes, and including all other crimes whatever, they might adjudge me to the utmost rigour of punishment; while they only intended to say, that I deserved some small check, to make me act more wisely for the time to come.

If it is true, what has been affirmed of the citizens upon some late juries, that they sought to petition for a mitigation of the sentence inflicted in consequence of the verdicts which had in this manner been given, because they judged them altogether disproportioned to any idea which they had formed of the crime submitted to their cognizance; it follows that they injured their suffering brethren *most unjustly;* and it can be no rational salvo to their mind, that they acted according to their light at the time; and that the extreme rigour of the sentences is chargeable not against them, but against the Judges; and that for this obvious reason, that, in effect, they actually and legally adjudged their brother to be possibly ten times more guilty than they believed him in their conscience to be, since they exposed him to ten times more suffering than they thought he merited. Had they made a point to have the same idea of the crime charged that the law and the judges of the law would have of it, and this is the first duty of every juryman, they would then have found a very different verdict; they would have found that he did not merit such a degree of punishment; that is to say, they would have found that he was not guilty of the crime libelled, as meriting such punishment.

This, therefore, I trust, will be both a warning and a lesson to juries, that they wisely consider first, what is the nature of the crime indicted, and the punishment that will be inflicted, if the same shall be proven. And then whatever number of smaller crimes may be proven against the pannel, if the whole of these together do not merit, in their judgment, the punishment to be inflicted, they must find the pannel at their bar not guilty of the crime indicted; that is to say, not deserving of the punishment adjudged to the crime charged in the indictment.

"The original intention of trials by jury was to guard against the partiality and injustice of magistrates and judges. The county courts, the members of which were the ancient judges of this country, became so exceedingly corrupt, that ju-

ries were invented to remedy the many enormities and oppressions daily committed by these courts. Formerly, the juries of Scotland were impannelled in civil as well as in criminal actions. They are now limited to the trial of high crimes and misdemeanours.

"It is a common notion, that jurymen are judges of the *fact* only, and not of the *law*.

"It has, perhaps, been too much fostered by the injunctions of judges and magistrates. It is exceedingly natural, that plain simple jurymen should look up with veneration to the high rank, and superior abilities of those men who are appointed by their sovereign to dispense justice over the nation. For this reason it is, that the English judges are so extremely solicitous not to inculcate their own opinions on the minds of jurymen, but to leave their determinations solely to the dictates of their own consciences."

"To what end," said Lord Chief Justice Vaughan, "are the jurors challenged so scrupulously to the array and poll? To what end must they have such a certain freehold, and be *probi et legales homines*, (good and honest men,) and not of affinity with the parties concerned? To what end must they have, in many cases the view, for their exacter information chiefly? if, after all this, they implicitly give a verdict by the *dictates* and *authority* of another man, when sworn to do it according to the best of their own knowledge? A man cannot see by another man's eye, nor hear by another man's ear; no more can a man conclude or infer the thing to be resolved by another's understanding or reasoning; and, though the verdict be *right*, which the jury give, yet they, being not assured it is so from their own *understanding*, are *forsworn*."

Sir Matthew Hale, in his Pleas of the Crown, remarks, "That it is the conscience of the jury that must pronounce the prisoner *guilty* or *not guilty*; for, to say the truth, it were the most unhappy case that could be to the judge, if he, at his peril, must take upon him the guilt or innocence of the prisoner; unhappy also for the prisoner; for, if the *judge's opinion* must rule the verdict, the trial by jury would be *useless*."

"Though the proper business of a jury be to inquire into the truth of facts, it is certain, that, in *many* cases, they judge of matters also of *law* or *relevancy*. Thus, though an objection against a witness should be *repelled* by the court, the jury are under no necessity of laying greater stress on his testimony than they think *just*; and, in trials of art and part, where special facts need not be libelled, the jury, if they return a general verdict, thereby make themselves truly judges of the *relevancy*, as well as of the truth of the facts deposed upon by the witnesses. A general verdict is that which, without descending to particular facts, finds, in general terms, that the pannel is *guilty* or *not guilty*." (Ersk. Inst. p. 741, § 101.) The same author remarks, that M'Kenzie "disapproves of this institution of juries, because it is hardly possible, in many cases, to separate the proof of facts from their relevancy, the last of which is frequently of too high a disquisition for such as are not learned in the law. But no man's *life* or *fortune* ought to depend upon too refined reasoning; and, if decerning the *nature* of crimes be beyond the *reach* of juries, which are presumed to consist of men of common understanding, how can our *criminal law* be accounted a *rule* by which every *artificer* and *farmer* ought to *square* his conduct?" Ibid. p. 738.

From these most respectable authorities, and many others that might, if necessary, be produced, it is evident, that jurymen, by the laws of their country, are expressly constituted judges, in all criminal trials, both of the *law* and of the *fact*. I shall, however, hazard a few arguments, derived from the nature and intention of trials by jury.

To prevent the misapplication of law by judges and magistrates, was one of the great ends for which trials by jury were originally devised by the wisdom of the legislature. If, therefore, the power of judging of the law, as well as of the fact, were annihilated, the very intention of the legislature would be defeated; because the courts, and not the jury, would then be the sole judges. Intention is the essence of crimes. The facts libelled may be distinctly proved. But if from particular circumstances, the jury are convinced in their own minds, that the pannel either had no intention to commit a crime, or that the crime is not of so heinous a nature as to merit the punishment concluded for in the indictment, in all cases of this kind, the jury have not only a right, but they are bound, by the spirit of their oaths, and by the laws of God and man, to find the pannel *Not Guilty* of the crime laid to his charge. When a pannel is libelled for murder, and the actual slaughter is proved against him; yet, if the jury are satisfied that he had no design to commit the crime, it is their duty to *acquit*

him; because, on this supposition, the intention is wanting, and, of course, the crime of murder has no existence. Again, suppose a culprit to be indicted for robbery, or any other capital offence, and that the facts are clearly proved; still, as Mr. Erskine judiciously remarks, if the jury are convinced in their consciences, that the chief witnesses are either perjured, or that their evidences should not have been admitted, their testimonies ought to be entirely disregarded.

Besides, if the powers of jurymen were limited to facts alone, why are exculpatory evidences permitted? The facts libelled may be fully proved. But the pannel, in alleviation of his guilt, may bring such evidence as will either alter the species of his crime, or convince the jury of his innocence. When a jury are judging in a case of this nature, they not only deliberate concerning the two kinds of evidence, but they consider the nature of the crime, and the punishment that ought, or ought not to be inflicted. In all such cases, the jury must necessarily determine both the law and the fact.

I know it to be the opinion of many jurymen, that, after the court admit a *relevancy*, they are bound by their oaths to find the libel either *proved* or *not proved*. But these gentlemen should consider, that their business is to give a verdict of a very different kind. They are to judge both of the criminality of the culprit, and of his exculpatory evidence. The words, *proved* or *not proved*, should be for ever banished from the verdicts of juries. A relevancy may be found, when the jurymen, who hear the indictment impugned, are of an opposite opinion from the court. A crime may be libelled, when the facts related in the indictment, though completely proved, do not constitute the essence of the crime charged. Hence, whenever the minds of jurymen are convinced that a relevancy has been improperly found, their verdict, however the proof may stand, should be *Not Guilty*. Indeed, the expressions, *Guilty* or *Not Guilty*, ought alone to be employed in verdicts. They are liable to no ambiguity, and never can embarrass a court.

It is generally thought, and the maxim has received great support from practice, that, when a jury find a pannel *guilty*, but recommend him to the *mercy* of their sovereign, the culprit must either be pardoned, or receive a milder punishment than death. The unhappy fate, however, of James Andrew, who was lately hanged in Edinburgh, though he had, in the strongest manner, been recommended to mercy, by the unanimous suffrage of his jury, must tend to remove this prejudice, and make jurymen very cautious of their conduct. When a majority of a jury believe in their consciences, that a culprit, though the crime libelled should be proved, does not deserve to be cut off from human society, by the ultimate punishment of the law, they should uniformly give a verdict finding the pannel *Not Guilty*. This is a high privilege, intrusted to you by the laws of your country, and you cannot be too anxious to prevent its infringement or violation. Consider, the moment you desert a pannel by an indecisive verdict, your powers are at an end. Bestow, therefore, that mercy which you recommend, and which you think the culprit deserves, while it is in your power. Never trust to future contingencies of any kind; for, the highest orders of men may have prejudices; a thousand fatal accidents may happen; misrepresentations may be given; the opinion of courts may not always coincide with that of the jury; even negligence of office has deprived men of existence after the mercy of the sovereign had been obtained.

It was for this reason that I objected to the trial of the relevancy till my Jury was impannelled, and that I shall yet bring the previous question under their review, if you shall at present give an unfavourable judgment, because I shall consider your doing so as prejudging my cause, in the most important article, and in all of which my jury alone are entitled to judge.

If then, Gentlemen of the Jury, you are of opinion with me, that with regard to the first article charged, the Dundee paper, I have already been judged, and at any rate retained a witness against the person condemned for it, and which crime, in the opinion of all the world, is now also sufficiently atoned for, by the punishment already inflicted. If you are of opinion, as you must be, that I cannot be criminated, merely for being a member of the British Convention, unless that Convention was found guilty, which cannot be found in this present trial, because I am not before the Court as responsible for the charges brought against it. And lastly, my lords, as the charges respecting the contravening the authority of the Magistrates of this city, is a matter entirely betwixt them and me; and as they have not joined the Public Prosecutor in this indictment, and indeed could not have done so, the matter having been already fully compromised betwixt us, you cannot

avoid assoilzieing me from the present charge. There not being a single thing more in the indictment against me, you are my sole and independent judges, my country. No Court can restrict or control you. The Lords of Justiciary themselves are bound to declare *that* to be law which you finally determine as your verdict.

If, however, on the other hand, you are of opinion, that the indictment as laid is relevant, I am ready to enter upon a discussion of every charge against me. Let us just now proceed to make up before you the defect, the constitutional defect of the indictment. Let the Prosecutor state in Court, his meaning of the word sedition; his idea of that crime, as laid to my charge; what statutes is it a breach of; and the idea of criminality which the Legislature has affixed to this crime, by the punishment annexed to it; or as the charge at the instance of the Prosecutor states it, *the pains contained in the Acts of Parliament.* I am far from wishing to escape trial. I rejoice to think, I will now have an opportunity to remove the public prejudices entertained against me, and that now my country shall recognise me to be, what my heart tells me I am, its disinterested well-wisher.

Permit me then, Gentlemen of the Jury,* to lay before you my own private opinion of the crime of sedition, the opinion which was expressed from the Bench, and to entreat you to fix some precise idea of the same as the standard by which to measure the degree of criminality in the actions, with the circumstances attending them, which are charged in the indictment.

All crimes against the state may be divided into three classes; Treason, Sedition, and Petty Misdemeanour. But in order to fix guilt on the acts comprehended under these several heads, two things must enter into the description of them. 1st, Acts comprehended in the term of misdemeanour must, in their consequences, or immediate effects, tend to stir up sedition. Those, again, under the description of sedition, must in like manner run into treason. 2d, These overt-acts must severally appear to be performed, with the evil intention to promote higher crimes against the state. For example, a person may be bound in duty to say and do things directly contrary to the present government of his country, and which, in their immediate consequences and native tendencies, are evidently calculated to withdraw the affections of the governed from their governors. But here it will be admitted, by a Christian court at any rate, that one must obey God, rather than man. And consequently it must necessarily follow that, as a person, so situated, could not be indicted for any criminal intention, whatever tendency the things which he did conscientiously, might have to alienate the affections of the people from their rulers, no crime could, in justice, be fixed on him. Would the Prosecutor say, that the following anecdotes of duty and patriotism, which have been preserved as examples of that liberty wherewith Christ hath made his servants free were sedition? I shall read a few of them; instance the Prophet *Isaiah*, chap. ix. ver. 13. "For the people turneth not unto him that smiteth them, neither do they seek the Lord of hosts:—14. Therefore the Lord will cut off from Israel head and tail, branch and rush, in one day. 15. The ancient and honourable, he *is* the head; and the prophet that teacheth lies, he *is* the tail. 16. For the leaders of this people cause *them* to err; and *they that are* led of them *are* destroyed." Chap. iii. ver. 12. "*As for* my people, children are their oppressors, and women rule over them. O my people, they which lead thee cause *thee* to err, and destroy the way of thy paths. 13. The Lord standeth up to plead, and standeth to judge the people. 14. The Lord will enter into judgment with the ancients of his people, and the princes thereof; for ye have eaten up the vineyard; the spoil of the poor, *is* in your houses. 15. What mean ye *that* ye beat my people to pieces, and grind the faces of the poor? saith the Lord God of hosts." Chap. i. 21. "How is the faithful city become an harlot! it was full of judgment; righteousness lodged in it; but now murderers. 22. Thy silver is become dross, thy wine mixed with water. 23. Thy princes *are* rebellious, and companions of thieves: every one loveth gifts, and followeth after rewards. they judge not the fatherless, neither doth the cause of the widow come unto them. 24. Therefore saith the Lord, the Lord of hosts, the mighty One of Israel, Ah, I will ease me of mine adversaries, and avenge me of mine enemies: 25. And I will turn my hand upon thee, and purely purge away thy dross, and take away all thy tin: 26. And I will restore thy judges as at the first, and thy counsellors as at the beginning: afterward thou shalt be called, The city of righteousness, The faithful city. 27.

* Part of this pleading was delivered before the Jury alone; but the whole is given here, that it may be seen at one view.

Zion shall be redeemed with judgment, and her converts with righteousness." *Ezekiel*, chap. xxxiv. ver. 9. "Therefore, O ye shepherds, hear the word of the Lord; 10. Thus saith the Lord God, Behold I *am* against the shepherds; and I will require my flock at their hand, and cause them to cease from feeding the flock; neither shall the shepherds feed themselves any more; for I will deliver my flock from their mouth, that they may not be meat for them. 20. Behold I, *even* I, will judge between the fat cattle and between the lean cattle. 21. Because ye have thrust with side and with shoulder, and pushed all the diseased with your horns, till ye have scattered them abroad; 22. Therefore will I save my flock, and they shall no more be a prey; and I will judge between cattle and cattle. 23. And I will set up one shepherd over them, and he shall feed them, *even* my servant David."

Would the Lord Advocate take upon him to characterise these passages as sedition? Would he impeach the Servants of the Most High with this crime? This would be to impeach our Lord Jesus Christ himself, who not only commanded his servants to testify such things against the evil rulers of the day, but corroborated what they had done by his own personal deed, as we read in John.—*John*, chap. x. ver. 7. "Then said Jesus unto them again, Verily, verily, I say unto you, I am the door of the sheep. 8. All that ever came before me are thieves and robbers; but the sheep did not hear them. 11. I am the good shepherd: the good shepherd giveth his life for the sheep. 12. But he that is an hireling, and not the shepherd, whose own the sheep are not, seeth the wolf coming, and leaveth the sheep, and fleeth; and the wolf catcheth them, and scattereth the sheep."*

The true definition of sedition then must be, that which our own Scots statutes give under the head, of leasing-making against the government of the country, with a bad intention. Speaking the truth can never be sedition; for truth, you know, is no libel. If his lordship means and indicts, in the word sedition, a higher crime than that in our statutes under the head of leasing-making, he ought now to declare candidly what he intends by it; and the court ought to fix him down to such precise definition; and they must also declare the precise statute, or statutes, of which his crime, so defined, is a breach; for without stating the precise standard, by which the jury are to try my conduct, how can they judge whether I have transgressed? and how far? and how am I to justify my conduct, against the charge of having transgressed?

I know no law, either of God or man, that I have transgressed, in the matter of reform. What is the law which his lordship thinks I have transgressed? let him now declare it, if I have; and I will yet pass over the informality of its not being stated in the indictment; though, as I am no lawyer, it would be taking me rather upon too short warning. But if his lordship has no law by which to try my conduct, except his own opinions, and has raised this process against me, trusting that a jury in his sentiments will have the same opinion of my conduct, that he has formed, I will protest solemnly, that I cannot be tried but by the laws of my country; and as no law nor statute is stated in the indictment as transgressed by me, I protest that my jury may not proceed to find a law in their own breast by which to try my conduct; because I hold it a privilege, of which a free man can never be deprived, that he may do any and every thing not proscribed by the laws of his country. I cannot know the private sentiments of my judges, by which I would, in that case, be obliged to regulate my conduct, if his opinion was my law. And what is slavery but this?

Lord Justice Clerk.—There is one thing I want to know—he says, he was called as a witness;—was he examined?

Lord Advocate.—Palmer was brought to trial at Perth, and Skirving was included in the list of witnesses; but it was expressly directed, that he should not be called as a witness, unless it was found absolutely necessary to the conviction of Palmer.

Lord Justice Clerk.—That satisfies me;—I always understood, that examining a man as a witness, was an absolute preventative against his being called upon afterwards, by a criminal prosecution: but he was not examined, and therefore that satisfies me.

Lord Eskgrove.—The pannel at the bar is charged with sedition, and he has declined to take the benefit which the laws of his country afford to every criminal; he did not think proper to apply for counsel; if he had, he would have received that indulgence; he is now brought before a

* The preceding passages, in which Mr. Skirving brings forward the Bible in support of his political doctrines, must have been somewhat startling to the Church and King Tories, who usually hold a reformer to be equivalent to an infidel.—*Ed.*

jury of his country, and he will be allowed to bring any evidence he thinks fit, to alleviate the charges against him. My lord, I cannot think there is the least ground to doubt of the relevancy of the indictment. The gentleman says, it does not mention any particular act upon which it is founded—it is very true it does not, but he certainly does know, or may know, that the law of Scotland is founded on many grounds besides that of Acts of Parliament; there are many things in it which are established by usage,—by the laws of God,—by the dictates of the consciences of men; and, I believe, if there is a crime apparent to the sense of every man, this crime, under the name of sedition, is as well understood by every one in this assembly, as by any one of your Lordships. I don't know what sort of government this gentleman would wish to establish in his new generation of government; but, I believe, never any government existed, which did not think it necessary to punish sedition among the people, which might perhaps go the length of overturning the government, which it does not always do;—it may have the tendency of an attack upon government itself, according to the nature of the particular charges; but to say, that an indictment charging sedition, is not relevant without an Act of Parliament, is contrary to usage, and contrary to law. The first charge is, that of accession to the publication of Palmer's hand-bill. As to that, a jury of the country did find, that it was a seditious libel. Had this gentleman been admitted a witness there, I certainly would not have allowed him to be libelled at the bar for that offence; but he was not examined, though he was cited as a witness. The gentleman says, it is necessary that the British Convention should be first tried, and convicted, before he can be charged, as an individual, with the acts charged to have been done in that Convention. I don't understand that the Convention is a body corporate, but a Convention of individuals; we shall hear whether it was a Convention met for bad purposes or not; and whether this gentleman was one of them. Suppose a meeting of persons assembled under any name, and they should resolve amongst themselves, that they would set fire to the city of Edinburgh; if the Public Prosecutor lays hold of one of the persons that are present at that resolution, would it be consistent to common sense, that he would have a right to say, I am not the representative of that meeting? you must bring them and try them, before I can be tried. My lords, it is not necessary that that should be done; if he gave concurrence to what was done in that assembly, that is sufficient. These people have chosen to follow the example of the French Convention—the resolutions that were come to, in their Society, by order of the same Convention, of which this gentleman acted as Secretary;—those motions, those resolutions, and those speeches, were published in a newspaper, *by order of the Convention, with the concurrence of the pannel.* That is a circumstance that will merit the consideration of the Jury and the Court. In cases of forgery, which is one of those crimes that we punish every day with capital punishments, is one of those things, which is of itself, in its nature a crime; if an hundred, or a thousand persons meet together, they may be able to make the forgery better, but if they use what they forge, if they publish it, and carry it into the world, then it becomes a capital crime at once, though it was innocent while it remained in their chambers. Those gentlemen meet, and resolve to do this and that, and the other thing, but they did not rest satisfied with that, but they choose a Gazette of their own, by which means they gain an influence upon the minds of the people; and they order it to be published. My lords, taking all the circumstances together, it is, in the first place, for the jury to decide, whether the acts are proved; or how far they are proved. And, 2dly, whether it proceeded *from a seditious intention*, or an innocent intention. I should be very happy if this gentleman can bring evidence to vindicate himself. I am very sorry to see this gentleman at that bar, after the example of that trial at Perth, and another, which are the only two that have come within my knowledge. I am always extremely sorry when my fellow subjects are charged with crimes; but it is my duty, and my country calls upon me to sit here in judgment, upon such offences. I should be very glad, if this pannel can prove himself to be innocent; but, if he be guilty, whether it is occasioned by a disorder of mind, (for there are public insanities as well as private ones,) or whatever it may, I pity the subjects of it; but, as a judge, I must conform *to the law*; every thing will come before the jury; and the pannel will have the verdict of his country.

Lord SWINTON.—If there is any wicked and malicious attempt, *by violence*, to overturn or disturb the present peace of the

country, or hurt the present government, *that* I understand to be sedition: as to the necessity of founding it upon any Act of Parliament, it is not necessary, though it is necessary for Acts of Parliament to try crimes at common law. As to whether the facts in the minor proposition come up to the offence stated in the major, I am of opinion, that all these charges come up, nay, go beyond the crime of sedition. My lords, this handbill calls upon the landholder "to coalesce with the Friends of the People, lest his property be soon left untenanted; the merchant, lest the commerce of the country be annihilated; the manufacturer, whose laudable industry has been arrested in its progress; the unemployed citizen; the great mass of labouring and now starving poor; and, finally, all the *rabble* are called upon, by the remembrance of their patriotic ancestors, who shed their blood in the cause of freedom."—Calling upon the rabble!—How are the rabble to do it? Can they do it in any manner but by outrage and violence? Is there any other instrument in their hands, but that of outrage and violence? My lords, I cannot help taking notice of another thing. "Had certain gentlemen countenanced this association last year, instead of pledging their lives and fortunes to prompt a corrupt and ambitious Ministry to engage in a war which could only bring guilt and ruin on the nation, we might have been still enjoying uncommon prosperity, and a happy understanding amongst ourselves as brethren. And now, if they will not manfully retract that very impolitic step, and immediately join their influence to the only measure which can prevent further calamity, if not anarchy and ruin, their pledge may be forfeited."—My lords, what was their pledge? Their pledge was their lives and fortunes. If that is forfeited, that is to say, they have forfeited their lives and fortunes, and the Friends of the People will be innocent:—innocent! of what?—innocent of taking their lives and fortunes from them: that is the clear language of this paper, and sad language it is. If that does not breathe sedition, I don't know what does. I am of opinion that the libel is relevant.

Lord DUNSINNAN.—The facts stated in the minor proposition do, in my apprehension, amount, in a most aggravated degree, to the crime of sedition; and there can be no doubt but this libel is relevant; and therefore it must of course go to the jury. It is unnecessary to add any thing farther.

Lord ABERCROMBIE.—It is the province of the jury, and of the jury alone, to judge whether the facts charged in the libel be true or not. The single point now before us is, whether those facts do sufficiently imply the charge? My lord, upon this point, I should be sorry indeed to have the least hesitation. I believe, there is not now present one man possessed of common understanding, who does not concur in the opinions which have been delivered by your lordships, that these charges do amount to sedition, and sedition of a most dangerous and aggravated nature. My lord, before the alteration of the law of Scotland with regard to treason, I think that the facts charged in this indictment might have been laid as treason. Nay, my lord, if a fact which the Solicitor-General stated should come out in evidence, that the British Convention, as it is called, determined and resolved, that in the case of a French invasion, a Convention of emergencies was to be called of course to assist that invasion; I think, if that be a fact, the public prosecutor might have laid his charge as high treason: but that is not the charge before us; it is a charge of sedition only, and I am of opinion it is perfectly relevant.

Lord JUSTICE CLERK.—My lords, after what I have heard, it is impossible to doubt, that the fact charged in the major proposition is sedition. I am sure, after the preceding trials, and the convictions following upon them, it would be unnecessary for me to use words to satisfy your lordships, that sedition is a crime by the law of Scotland; and, as to whether the facts in the minor proposition come up to the major proposition, I think this crime might have been laid as high treason. I am very clear it might before the Union. I will not say, by the law of England, it would have been tried as treason; but I am sure it is sedition both in Scotland and in England.

[The interlocutor of relevancy read.]

Mr. SKIRVING.—I hold that the jury are judges of the relevancy, that they are equally judges of the law as of the fact.

Lord JUSTICE CLERK was beginning to name the jury, when Mr. Skirving rose again to object.

Mr. SKIRVING.—The objections which I am to make, being of a general nature, and not personal, I wish to state them before any of the jury are named.

Lord JUSTICE CLERK proceeded to nominate the first five of the jury.

Lord JUSTICE CLERK.—Have you any objection to these five gentlemen?

Mr. SKIRVING.—I object, in general, to all those who are members of the Goldsmiths' Hall Association. And, in the second place, I would object to all those who hold places under government; because it is a proseeution by government against me: and therefore, I apprehend, they cannot, with freedom of mind, judge in a case where they are materially parties.

Lord ESKGROVE. — This gentleman's objection is, *that his Jury ought to consist of the Convention of the Friends of the People;* that every person wishing to support government is incapable of passing upon his assize: and by making this objeetion, the pannel is avowing, that it was their purpose to overturn the government.

LORD JUSTICE CLERK.—Does any of your Lordships think otherwise? I dare say not.

Mr. SKIRVING.—The ground of my objection to these gentlemen was, not that they belonged to that Association, by no means, but because they have prejudged me, in striking my name out of their Society.

LORD JUSTICE CLERK.—I remember the same objection was stated by Mr. Muir, and was over-ruled.

Names of the Jury.

Sir Andrew Lauder Dick, of Fountainhall, Bart.
Sir Hew Dalrymple, of North Berwick, Bart.
William Nisbet, of Dirleton, Esq.
Alexander Mackenzie of Seaton.
David Anderson of St. Germains.
John Caddell of Cockenzie.
James Craig of Setonhill.
Francis Buchan Sydserf of Ruchlaw.
John Miller, Ironmonger in Edinburgh.
William Lamb, Upholsterer there.
Walter Brunton, Saddler there.
Andrew Boog, Cutler there.
Thomas Armstrong, Coppersmith there.
David Milne, Merchant there.
Edward Innes, Confectioner there.

EVIDENCE FOR THE CROWN.

Alexander Morren sworn.—Examined by Mr. BURNETT.—Do you remember, in the course of last summer, receiving any paper or address from the town of Dundee? Yes, it was addressed to Friends and Fellow-citizens, from the Dundee Berean Meeting-house; I got it from the Post-office, with a letter from Mr. Palmer, desiring me to get it printed.—Who did you employ to print it? My brother, John Morren, printed it; there were, I believe, a thousand copies thrown off, but I am not positive. I was desired to give a few to Mr. Skirving; and I gave a parcel of them to a servant girl that asked for them in his name.—How many were there in that parcel? I did not count them, but I believe there were two quires, or two half hundreds.

Lord ESKGROVE.—They were printed in half sheets, were they? Yes.

Mr. BURNETT.—Had you any conversation with him before or after you sent this parcel? I heard that he had received it, but I did not ask him.—Did you see him after you received Mr. Palmer's letter? Yes, I called upon him, and did not see him; and he then called upon me, and I shewed him a copy of the address: he said he would see if some friends of his would approve of it; he would let me know how many I was to keep: and a man called afterwards and told me I was to keep a hundred copies for the Society. I was to have sent them; but the girl came for them, and I gave her two half hundreds.

LORD JUSTICE CLERK.—Was the parcel directed to Skirving? No, it was not directed.

Cross-examined by Mr. SKIRVING.—Does it consist with your knowledge, that I knew any thing of that paper before you mentioned it? Was you desired by the author of it to take my advice in any respect? No, I was not. I was uneasy that Mr. Skirving did not call upon me; and therefore I called upon him. I was affronted that he did not approve of them; for I approved of them very much myself.—How do you know that that girl and that man were sent by me? I don't know; they came in your name.

James Kidd sworn.—Examined by Mr. BURNETT.—Are you acquainted with Mr. Skirving? Yes.—Did you receive any paper from him in the course of last summer? Yes.—[The paper being produced] Was that the paper? I cannot recollect, it was about that size; after reading the first two paragraphs, I destroyed it.—For what? Because I thought the language was too strong; and I did not like it.

LORD JUSTICE CLERK.—Was it to that effect? I don't recollect one word of it.

Mr. SOLICITOR-GENERAL. — Do you recollect the substance of it? No.—You recollect nothing earthly about it? No.

Lord ESKGROVE.—You say it was too strong; what was the nature of it? As well as my memory serves me now, it was something about the Friends of the People, expressed in such language that I did not like it.

LORD ADVOCATE.—Since this indictment was served upon the pannel, have you had any conversation with him, with any of his friends, or with any of the other witnesses, with regard to what you would

say upon the subject? I have had no conversation with him, nor no person has instructed me what to say upon this subject. —I ask you again, have you had any conversation with any of the other witnesses with regard to the subject of this trial? No.—Were you ever called upon, within this week, to attend a meeting of the witnesses upon this trial? Upon my word I never was.—Do you know a man of the name of Robb that lives upon the South Bridge? I know the man by sight. I was in his house about eighteen months ago.—Were you there last Wednesday? No, I was not.

Cross-examined by Mr. SKIRVING.—Did I give you this paper, or did you come and get it from me? I went up to ask the pannel how he did, and he asked me if I had seen that; I asked what it was, and he said I might take it home and read it.—You said you destroyed it because you did not like the language, and that you only read the two first paragraphs. I shall read as far as that, and then ask you a question, [reads them.] I want to bring to his recollection that this was not the paper. Is there any part of what I have read that you think objectionable? All I can say is, that as far as I read, I did not like the language of it. —Were you a member of one of the societies of the Friends of the People? Yes, I was once.

Joseph Mack sworn.—Examined by Mr. BURNETT.—[The witness proved the declarations of the pannel.]—Were you employed in the execution of a warrant issued, the beginning of December last, by the sheriff of Edinburgh, against the pannel? Yes, I accompanied Frazer and Dingwall to his house early in the morning, and found him in bed; it was a warraut for seizing the pannel, and such papers as we should find; we put the papers in two bags, sealed them, and carried them to the sheriff-clerk's office.—Were they sealed up in the presence of Mr. Skirving? Yes, and they were produced before him in the sheriff-clerk's office.—Were you present when the bag was opened? Yes, I am sure of that. The papers that were thought material were put into an inventory, and those that were not, were returned to Skirving; the inventory and declaration is contained in one. Mr. Dingwall wrote part of it, and I wrote part of it.—Look at that? This is the general inventory in my handwriting, and this is the declaration that was made at the same time. —Did you identify those different documents in any way? Yes, myself, the Sheriff, and Mr. Dingwall, put our initials upon them; and upon those that were the most particular ones, we put our names at full length.

Cross-examined by Mr. SKIRVING.—When this declaration, 31st July, was given in, you was present? Yes, I was.—Was I at that time dismissed simpliciter? Yes, you was not laid under bail at that time.—Was I apprehended under a warrant? I believe you was.—You said you was present at the opening of the bags? I cannot speak positively to the bags being opened, before I came, or after.

John Dingwall corroborated the previous witness.

Mr. William Scott sworn, examined by Mr. BURNETT.—Was you present when these declarations were emitted by the pannel? Yes, they were free and voluntary, he was sober and in his senses.—Were you present when the bags were opened? Yes, and the pannel was present: an inventory was made out of them, and authenticated by the persons present.

[The witness examines them with the inventory.]

LORD ADVOCATE.—Had you occasion to attend the sheriff and magistrates upon the 5th and 6th of December last? Yes, on the evening of Friday the 6th, we having heard that the British Convention had a meeting somewhere on this side of the town,—I went with the sheriff and magistrates, and found them assembled in Lady Lawson's garden, about 7 or 8 o'clock; I went in, and I observed the pannel and several others whom I knew; the chair was then empty, whoever had been in it before, and there was a call to the chair. Mr. Margarot took the chair. The magistrates called them to be dispersed—Margarot and others said they were met for legal and constitutional purposes, and they would not disperse till they were compelled by force; and desired us to hear Mr. Gerrald's speech, who had been speaking before we came in, and the magistrates told them that nothing of the kind would take place. There was then a general call for Mr. Margarot to take the chair, and Mr. Gerrald to go on. Mr. Margarot said he would not leave the chair till he was compelled. Mr. Davidson took him by the hand, and he then left the chair; upon this there was a call for Gerrald to take the chair, which he accordingly did; when Mr. Davidson required he would leave it, and insisted upon their dispersing —Did you hear what

they were met for? Yes, that they were met upon some business relative to petitioning the king upon some subject. Gerald likewise refused to leave the chair, till he was compelled; Mr. Davidson said, he supposed the same compulsion would serve him, as had done Mr. Margarot—he took him by the hand, and he left the chair. Then Mr. Skirving called upon some one to take a protest against the sheriff;—he called for a notary—but no notary appeared: somebody put them in mind that they were permanent; and said, they would keep this in view though they were dismissed now—they would remember, that they were a permanent convention, or words to that effect.—Do you know the house? Yes, it was at Mr. Laing's, wright, in a work-shop belonging to him. The pannel had been apprehended the day before—was examined by the sheriff, and had been admitted to bail; he was apprehended as being a member of that convention.

Cross-examined by Mr. SKIRVING.—Did not you obtain a warrant from the sheriff to apprehend me, *upon a petition given in by you*, upon 31st July, relative to a paper published from Dundee? Yes.—Did not your petition request the sheriff to commit me to prison? *It was the very purpose of the application.*—Was I not dismissed simpliciter on examination, and was not committed to prison till 8 or 10 days after, when I attended again upon a citation of your own? No, he was taken, but it not appearing that he was the author of it, he was let to pass, but upon finding that there was a correspondence carried on between him and Palmer, he was again taken up and examined; and a letter of Palmer's being found in his pocket, he was committed as a party to the publication of that paper, of which he received so many copies from Morren.—At what time was this? In the Declaration emitted 31st July.

Mr. SKIRVING.—I beg that my declaration at that time may be read.—[It is read.]

Mr. SKIRVING.—You see I took a knowledge of the letter at the very first; I acknowledged every thing that was laid against me, and more. Was I not dismissed simpliciter at that time? and was again taken up upon a new petition, though no new matter was brought against me? We suspected he was possessed of that letter, and a warrant was issued to search his house, and the letter was found.—Did I not give up all the Dundee papers, and tell you I could not find the letter, but when I did, I would give it up? Yes; but you never did, though it was found in your possession afterwards.—Was I not at that time dismissed simpliciter, that is, without being desired to come again? You was only allowed to go and search for that letter.—The witness will recollect that he is upon his oath; and I ask him if there were any such conditions? There certainly was; you went away to find that letter.

Harry Davidson, Esq. sworn.

[In his examination on the part of the Crown, confirmed the last three witnesses in every particular, except the last part of Mr. Scott's.]

Cross-examined by Mr. SKIRVING.—Were you informed that we were met that night particularly about a petition to Parliament? Yes, I think it was Margarot who said that they were then discussing a petition.—Was I not apprehended by a warrant issued by you upon the 31st July last? I believe you was.—Granted upon the petition of the Fiscal, requesting me to be incarcerated? I think it is more than probable that it was so, but I do not recollect.—Was I not dismissed upon the declaration I then made, without finding bail? Yes.—Only eight days after, did I not appear before you again upon the same subject? Yes.—And you granted a warrant to search my house? I certainly did grant a warrant to search your house, and to incarcerate you.—And of course this was on a new petition from the Fiscal? I believe it was.

*Right Hon. Thomas Elder, Lord Provost,** sworn.—Examined by the LORD ADVOCATE.—Had you ever any occasion, in the course of your duty, to disperse any persons in the month of December? I had. I went with some of the magistrates and peace-officers to a mason lodge in Blackfriars'-wynd, on Thursday the 5th of December; we went up to what I understood to be the chair, and asked, "if that was the meeting of the Delegates of the Friends of the People?" Mr. Skirving answered, I think, and said, "Yes, they were;" and so did Mr. Paterson who

* It may interest the reader to know, that a Mr. Baird, a raw young clergyman from the Highlands, married the daughter of this gentleman; and the result was, that when the situation of Principal of the University of Edinburgh became vacant by the death of the celebrated Dr. Robertson the historian, this raw young clergyman, of whom nobody knew any thing, was promoted to that high office, through the mere influence of his father-in-law the provost, although one of his competitors was the distinguished Dr. Hugh Blair. This flagrant Tory job gave great offence to the country, and Principal Baird preached for many a year, and we believe still continues to preach, to empty benches.

was in the chair. Mr. Paterson soon after walked out, and the meeting called, from all quarters, for Mr. Browne to take the chair, who took it accordingly; and being desired to leave it, said, he had been placed there by the authority of the Convention, and could not leave it till he was compelled by force. I went accordingly to the chair to hand Mr. Browne out: there were three constables in the room at the time.—Did you see the pannel there that night? Yes, he said they were a legal and a constitutional meeting; and that they were upon business that was for the good of the country, drawing up an address to the king, or parliament, or something of that kind; they dismissed peaceably soon after; and I took the key away with me: I heard one of the members in a corner of the room say, that they would adjourn to some place in the Canongate; upon that account, we sent down some officers to see if they did so, and were informed, that it was a meeting of a society for some charitable purpose, and not of these people, who call themselves "The Friends of the People." I was informed that the Friends of the People waited till that meeting was dismissed, and then they took possession of the place.—Had you information of any meeting subsequent to this? Yes, we had people placed through the town to prevent their meeting again: and we heard that there was to be a meeting the next evening; but it being out of my jurisdiction, it lay more with the sheriff; and I went with the sheriff-substitute to disperse them;—it was in a carpenter's shop. I saw several people there, whom I had seen the evening before, particularly Mr. Skirving, and, I think, Mr. Callander.—Did they call themselves "The British Convention?" Yes.—Did they instantly disperse? Yes; only as the evening before, desiring some force to be used by way of etiquette.—And Skirving was there that second night? Yes.—Was anything said of their meeting being permanent? Not that I remember.—Did any body speak of a protest, and call for a notary? I heard Skirving offer to take a protest both nights. In consequence of this second attempt, I issued a *proclamation* with the sheriff, to prevent their meetings the next day.—Was that proclamation attended to, or disobeyed? It was disobeyed so far, that an advertisement appeared in the Gazetteer, on Tuesday following, the 10th, signed by Skirving, "calling a meeting of the Friends of the People, on the 12th;" in consequence of which, I issued a warrant against Skirving on Wednesday, the day after the advertisement appeared, when he emitted a declaration. I then issued an order prohibiting him from calling that meeting at the cockpit.—Did you give him a copy of it? He might have had it if he desired it; it was read over to him, and I think he said, he would read it the next day.

Cross-examined by Mr. SKIRVING.—My lord, when you came to disperse the meeting in Blackfriars'-wynd, was it not given as a reason, why we did not disperse voluntarily, that it was a meeting of delegates sent there by other people upon important business? Yes, I believe you did say so.—That the business we were engaged in, and which was appointed for that night, some days before, was about petitioning the House of Commons? I believe words to that purpose might have passed, but I cannot be positive.—Upon your saying that you must use force, did I not move that, as we had neither inclination nor ability to oppose force, any sign, such as your going up to the chair, should be considered as force? As I did not hear any such thing: I know, both you and Mr. Browne said, you would not go without force.—You must recollect that the motion came from me, that we should disperse peaceably? No, I believe Mr. Aitchison was the person; he said it was the same thing whether they went out, or whether they were compelled to go out.—Do you recollect saying, that you had jurisdiction over a public-house, but not a private-house; and I said, we considered this as a private-house? I believe you, or some other body, did say something to that purpose.—Was I not apprehended upon a petition of the Fiscal; which petition prayed a warrant of commitment? Yes.—Was there an order given by the Magistrates, not to shew the warrant? I know nothing of such an order; I should rather think the order would be to shew it. I really don't know.—A declaration was taken from me at that time, and the affair at the cockpit was afterwards? That at the cockpit, was taken by some other magistrate.—And I was dismissed simpliciter? You certainly was, that evening.—And there was no action since commenced against me, at the instance of the Town-Council? Not that I know of.

Neil M'Vicar, a brother magistrate (of course), corroborates Provost Elder.

*William Coulter, Esq.** sworn.—Ex-

* This gentleman was a hosier in Edinburgh, and, being a Tory of the first water, succeeded in

amined by Mr. BURNETT.—Does it consist with your knowledge, that a proclamation was issued against the people calling themselves "The British Convention?" Yes, on the 11th of December, and on Thursday the 12th, soon after twelve o'clock, I went to the Grassmarket, where there was a great crowd assembled at the entry of a close leading to the cockpit; and Mr. Skirving was reading to the people a paper which he had in his hand;—when I got into the heart of the crowd, I begged that he would desist, which he did; and some of the peace-officers began to take the paper from him by force. I waved my hand, and desired them not to use any force against Mr. Skirving, unless he chose to give it up, which I believe he did. Mr. Skirving was, at my desire, brought before me, in the council chamber, and examined; and was afterwards carried to Goldsmiths' Hall. — Was that declaration made in your presence? Yes, this is my subscription to it; it was freely and voluntarily emitted, and he was sober and in his senses.—[Shews him a paper] Was that the paper you took from the pannel? I believe it is.

Cross-examined by Mr. SKIRVING.—Was I apprehended upon a warrant on the Wednesday, and sent to the council chamber? I don't know upon what warrant you was apprehended; I did not see the warrant; I was present at your declaration.—And I was dismissed without bail, or any new process of law instituted against me? I know of no other process.

James Laing sworn.—Examined by Mr. BURNETT.—Did you attend the magistrates to the Grassmarket at any time? Yes, to disperse an illegal meeting on Thursday the 12th December; they were assembled in a close that leads up to the cockpit. I saw Mr. Skirving reading a paper; Mr. Browne was on his left hand, and a magistrate came forward and spoke to Mr. Skirving, took hold of his hand, and he put the paper in his waistcoat pocket: he had read one side, and had turned it to read the other.—Was he afterwards apprehended? Yes.—Were you present at his examination? No, I was not.

[The paper produced in Court.]

Cross-examined by Mr. SKIRVING.—Do you remember the first day that I was examined; after you came in, I desired a copy of it, that I might read it? I do.—Does it consist with your knowledge that I did not read it? No, I did not see you read it.

William Ross sworn.—Examined by Mr. BURNETT.—Were you, or are you a member of the meeting of the Friends of the People? I am.—What is your profession? A clerk in the Gazetteer Office.—Look at that paper, 4th October, 1793. Who is the author of that handbill? I am the author of the first column, or half of it.—By whose directions did you compose it? By no person's directions.—To whom was you to submit that composition? To the Friends of the People, in the mason lodge, Blackfriars'-wynd, at a general meeting at which I attended; I gave it to my brother to read it.—Was the pannel a member of that meeting? I believe he was secretary.—Do you know who composed the second part of this paper? I don't know.—Don't it consist with your knowledge, that that handbill was circulated? I have seen them about the streets. — Have you occasion to know where it was printed? Yes; in the Gazetteer Office.—Had you any concern in the printing of it? No.—Was Mr. Skirving's name annexed to it? It was, in the printed copy.—Do you know who paid for the printing of it? to whose accompt it was put? I rather think, but I don't know, that it was put to the Society of the Friends of the People. I am a clerk in the office, but I don't manage that part of the business.—Who does? Mr. Scott.—Had you any conversation with Mr. Skirving about it? I don't recollect that I saw him at that time.—Were you a member of the Convention of the delegates of the people, the British Convention? Yes, I was; I attended it the first day.—Was there any subsequent Convention met afterwards? Yes, there was.—And the re-assembling of the whole Convention, do you recollect where they met; it was this winter, was it not? Yes.—Did you attend that meeting? I did.—Who acted as secretary to that meeting? Mr. Skirving; I don't know whether he was secretary, but he acted in that capacity.—Were there any other secretaries, assistant secretaries, or depute secretaries, or substitute secretaries, who acted at that meeting? Yes; Mr. Aitcheson was appointed by the meeting to assist Mr. Skirving.—Any body else? you or your brother? I never did. My brother used to take notes; and several other

raising himself to be Lord Provost of Edinburgh, in which situation, he died in 1809. He was buried at the public expense, in the most extravagant manner: the whole city shutting shop, and displaying as much "outward show of grief" as if royalty itself had expired. These were the halcyon days of Toryism!

persons did the same; I don't recollect who they were.—Were their accounts, to your knowledge, of the proceedings of this Convention, published weekly in the Gazetteer, or abstracts? Yes.—Do you know that there was a scroll of minutes made up at each sitting? Yes, there were; which were sometimes read at the next meeting, and sometimes not.—Were there ever any corrections or alterations made upon the reading of those minutes? Yes, by Mr. Skirving and Mr. Aitcheson; but there was a committee proposed to be appointed to revise the minutes.—Did this scroll of minutes contain an accurate statement of what passed? They contained the substance of what passed.—Should you know the scroll of minutes again if you were to see them? I saw them in the Sheriff-clerk's office.—Look if you know any body's handwriting there. [Shews him the scroll.] It is like my brother's handwriting.—Do you know Skirving's handwriting? I have seen papers which were said to be his handwriting, but I never saw him write: this looks like what I have been told was his; but I cannot say, as I never saw him write.

Lord DUNSINNAN.—Do you think it is like his handwriting? I think it resembles it.

LORD ADVOCATE.—Did you use to take down the debates of the Convention in short-hand? Yes.—For what purpose? For publication in any way I thought proper.—In the Gazetteer? Yes.—Was what was published in the newspaper, in general, a correct statement of what passed in the Convention, as far as you know? My notes were very incorrect; having taken a bad cold which affected my hearing, but I made them as near as I could.—Was you accurate with regard to the names of the speakers? I cannot say.—Do you remember any motion being made in particular by Mr. Skirving? Did you ever hear of a Solemn League and Covenant in the Convention (and consider before you give an answer), or any thing resembling those words? I cannot say.—Did you ever hear him make any motion at all in the course of their proceedings? There were so many spoke, that I cannot tell.—What! did he sit dumb during all this time? I don't recollect his making any motion.—Do you know of any committee, called a Secret Committee, being appointed by the Convention? I recollect something of it.—Do you remember if the Secretary was a member of that? I cannot remember that.

Lord ABERCROMBIE.—You have sworn by Almighty God to tell the truth, and the whole truth; if, therefore, you say, you do not recollect what you do recollect, you are guilty of perjury.* I am very much obliged to your Lordship for the admonition; but I don't recollect that.

LORD ADVOCATE.—I ask you again, who were to be the members of that Secret Committee? I cannot recollect that.—Do you remember what was to be the business of this Secret Committee? It was to appoint a place of meeting for the members present.—Was this place of meeting to be made known to any body besides the members of this Secret Committee? I suppose it was to be communicated.—And upon what occasion was it they were to meet, think you? In certain cases.—What cases? Cases of emergency; I cannot recollect them all.—You need not repeat them all, but you must tell us some of them before we part? One was, in case of a bill being brought into Parliament, similar to the convention bill in Ireland.—That is one: now tell us any other? I cannot recollect.—Upon your oath, did you ever hear of any other being mentioned? I don't recollect them.—You have told us there were some others; now you must know something about them. Was any thing mentioned about a foreign invasion? I ask you upon your great oath? There was something about a foreign invasion, but I don't know that that was one of the cases of emergency.—How came it to be mentioned at all? I cannot say: it might be at the beginning of a motion, or something of that kind.—Was it upon the occasion of debating upon a convention of emergency? I cannot say.—Was a dispersion of the meeting ever given, as one of the cases of emergency? There was some conversation about that the night before.—I see you are very correct in some things, though not in others. Did you ever hear of the Scotch act of 1701, against wrongous imprisonment? I have heard of it.—Did you ever hear it mentioned in the Convention, as one of those cases of emergency, if a motion should be made for suspending that act of Parliament?—recollect yourself? I think I do recollect it.—Did you ever hear of the Habeas Corpus Act in England? I have frequently heard of it.—Did you hear of it in the Convention the other day? Yes.—If a motion should be brought into

* This, as it stands, is a very self-evident truth. Lord Abercrombie meant to say, "If you do not recollect *what I wish you to recollect*, you are guilty of perjury."—*Ed.*

Parliament to suspend the habeas corpus act, was that a case of emergency? Yes. —Were there any other cases of emergency mentioned? I don't recollect any more.—Look at that: is that one of the papers published in your office? Yes.—And these? Yes.—Do you know if they contain the substance of the proceedings of the Convention? Yes.—What was the common name by which the members were addressed? You will see in the papers.—But we want to hear from you? Sometimes citizen.—Did you ever hear the word section used in the Convention? Yes, they were divided into classes, or divisions, or sections; a section consisted of fifteen or thereabouts: they met every morning, and made reports in the evening.—Were you a member of a section? Yes, No. 4; we met in Simon's-square. —Were you ever present in the Convention, when reports were made by other sections? Yes.—Did you ever receive any strangers in the Convention? Yes.—Did you ever confer any mark of favour or honour upon any strangers? No.—Did you ever hear or know that there was at any time honourable mention made of any person? I cannot say that I ever did. —Did you ever see or know the honour of the sitting given to any person that came in? No; I don't recollect it.—Have you had, since the indictment was served upon Skirving, a meeting of the witnesses on his trial? I have been in company with some of them, but don't know of any meeting appointed.—Do you know a man of the name of Robb? I have been in his house.—Were not you there last Wednesday evening? Yes.—Was Mr. Margarot there? Yes.—And Somerville? Yes.—There were ten or a dozen of you? Yes, I believe there was. —Do you know the purpose of that meeting? It was new-year's day. I heard that they were to dine there, and I went over to them.

Mr. Solicitor-General.—Who told you of that meeting? I don't recollect. I did not know of it till within an hour of the meeting.—You went upon the summons of you don't know who—was it Mr. Margarot? No.—Was it Somerville? No.—Your brother? No.—John Clark, the mason? No.—Was he there? No.—At that meeting, was this trial the subject of conversation? It was mentioned that the trials were coming on this week.—And what was said about them? I don't recollect.—And do you think we are to believe that? I can't recollect any thing particularly relating to the trial, or with regard to the people who have been summoned as evidences.—Was any thing said about what was to be the event of the trials, or about the evidence upon the trials? Not that I recollect.

Lord Dunsinnan.—You will remember that you are to answer at the great tribunal of Almighty God for what you now say? I cannot recollect that any thing particular was said about it.

Cross-examined by Mr. Skirving.—If I put any questions respecting the Convention, it is for the sake of occasionally taking any blame from them, and not as it respects myself, because I don't hold myself responsible at present for what they do.—Does it consist with your knowledge, that ever a deputy secretary was appointed by the Convention? No.—Did the Convention ever acknowledge any minutes of their proceedings, till a committee of their own had drawn them up? No, I believe not.—Did the Convention appoint any names to be used by its members in preference to others? No, not that I know of.—Did the Convention appoint any established form of procedure, or were they only consulting about it? If I recollect right, plans had been given in, but none of them were adopted before it was broke up.—Had you ever the least apprehension of any design to raise tumult, riot, or any thing like sedition, in all the proceedings you have seen of mine in that Convention? I never had the smallest idea of it.—On the contrary, have I not always urged attention to order, and regular proceedings? I have always seen you attentive to good order and regularity.—Does it consist with your knowledge, that meetings by delegates was preferred to general meetings, in order that things might be more regularly carried on? I understood so.—And that the principal business of the Convention, from first to last, was an application to Parliament for reform? That was the only object that I know of.—This secret committee, was it not surely a committee of confidence, and appointed for the purpose of timeous remonstrance, against a quietism-bill, by a speedy call of the Convention the instant that a motion for such a bill passed the House of Commons? I understood it so.

Alexander Aitcheson sworn.—Examined by Mr. Burnett.—Are you a member of the society of the Friends of the People? Yes; I became a member upon the memorable 9th of August, 1791: I joined the general association at that time: I afterwards attended at Barbers'-

hall; and afterwards I joined the first meeting of the Canongate society.—Were you a member of the British Convention? Yes, I was a member of all the three conventions by delegation from the Canongate society.—Was the pannel a member? Yes, he acted as secretary.—Did you bear any office? Not in the first Convention; but afterwards, in the second and third, I did assist Mr. Skirving. I took notes to the best of my knowledge of the business.—Were they, in general, as accurate as you could make them? To say they were accurate, would be paying too great a compliment to myself; but I did it to the best of my abilities.—Look at this scroll of minutes, and see if it is your handwriting? Part of it is.—Do you know Skirving's handwriting? No, I do not.—Is that like it? I cannot say; there were other gentlemen appointed at the last Convention as assistants to the secretary; and I believe I could guess at Mr. Ross's writing: here are two or three pages of his; there are several other hands, but none that I know except Mr. Ross's, and mine.—Is this any thing like any handwriting that you know? Is this like Skirving's? It seems like a great many hands that I know: it is a very general kind of hand, and never having corresponded with him, I cannot swear to his writing. When I have been absent from the Convention, and have come in after the sitting was begun, I have seen him write, but paid no such attention as to be able to swear to it.—Did you offer to give in a resignation of your title to be there as a member? Yes; I found it inconvenient to my business, but they refused to accept it, saying, I might come when I could; and they appointed two delegates in my room.—Do you know if the minutes were revised by a committee of the Convention? Yes, before engrossing, they were always first revised by a committee; and ordered by the committee to be entered in a book, and afterwards printed.—Do you recollect any thing about the proceedings of the Convention, particularly the names that the members went by? I don't know what you allude to by that question.—Was Mr. Skirving called William Skirving, or what? No; we were not a society of quakers.—Did you ever hear the word "citizen" in the Convention? Yes; and I think it is the best title a man can have. I should blush for myself, as a burgess of Edinburgh, if I did not think so; and it is preferable to master, because we are commanded to call no man master.

Mr. Solicitor-General.—Did you at any time hear any thing pass relating to a Convention bill? Yes; I remember a motion was brought forward, that in case a Convention bill should be brought into Parliament, some resolutions might be entered into respecting it.—And that was done, was it? Yes.—Did Mr. Callander make any motion upon that business? I think he did; but I cannot say unless you will permit me to look at the minutes. [Looks over the minutes.] It is impossible that I should remember what is here mentioned, because it is not in my handwriting; I was not present at the time.—Do you recollect any thing about a motion for appointing a secret committee? I recollect such a circumstance had taken place when I was out; and when I came in, as soon as I had taken my seat, a motion was made by Mr. Sinclair, that a motion that had now passed should be burnt. I got up and opposed it. I said that our proceedings were all free and open; and I was told that the resolutions had already passed: all that was meant was, that some place should be appointed for us to convene in, in case we should be stopped by any compulsive measures.—Was there any particular name given to this meeting? It was a committee of secrecy.—But the meeting that was to take place was called——? Yes, a Convention of emergency.—Did you hear or understand why it was proposed that this resolution should be burnt? I never learned it any farther than this, that when Mr. Sinclair proposed its being burnt, it was resolved that the motion, instead of being burnt, should be reported and published.

[The witness read from the minutes the resolution that Mr. Sinclair moved, should be burnt.]

Look at the page before that? That is not my handwriting; I was not present, nor I don't think it is Mr. Ross's handwriting.

Mr. Solicitor-General.—Here it is said the members stood upon their feet, and solemnly, and unanimously, passed the resolution as follows, and then comes a blank of a page.

Mr. Burnett.—Do you remember any motions being made by Skirving in the Convention? Yes, many; but I have so bad a memory, that, unless there is something particular passed, I think no more about it. [Reads from the minutes.] "Citizen Skirving moved, That all the members, both of the Convention, and of the primary societies, should subscribe a solemn league and covenant."

But I remember very well, that Skirving was never called upon to explain what he meant by it. [Reads.] "Citizen Skirving moved, That the convention express its ardent desire, to cultivate a more close union with the societies in England, which was likewise unanimously agreed to."—Is that your handwriting? Yes.

[The witness read several motions, made by the pannel, in the British Convention, from the minutes.]

Lord Advocate.—Was you there the night on which Skirving and others were taken up? Yes, I was there, when the Lord Provost paid us a visit.—Do you recollect any resolution that was come to by the Convention, that if you should be dispersed, that should be one of the cases in which the Convention of emergency were to meet? I heard such a resolution.—Was you present in the convention, when you heard it? I cannot say; I rather think not, but I think I heard it.—Do you know of any other cases in which they were to meet? I have heard that one was, in case the island should be invaded by a foreign enemy; another was in the case of a convention bill.—Did you ever hear that the suspension of the habeas corpus act was one of the cases? No.—Was the Convention ever, to your knowledge, divided into sections or classes? We were divided into divisions first, and then classes, and after that a section was thought to be a better name than either of the others, and, for the last fourteen days, the word section was used.—Was it common in the Convention, to give in motions in writing? Yes, that was an early rule adopted, that all motions should be given in writing, and signed.—Look at that paper? [shewing the witness Mr. Callander's motion respecting universal suffrage.] The indorsement, at the back, is written by myself.—Look at that? [a motion by Mr. Margarot.] I have seen that motion before, but I had no hand in it.—Look at that? [a motion made by David Downie, for regularity and order.] I think I recollect having seen that before, but it has not my hand to it.

Cross-examined by Mr. Skirving.—Did the Convention appoint any name in preference to another? No.—Were any minutes acknowledged by the Convention, till a committee had revised them? No.—Was there any appointment of you by the Convention as deputy secretary? No.—Was this meeting, which you say was for a convention of emergency, to take place upon a motion to bring in such a bill, or upon such a bill being passed? I cannot be certain, but I understood it to be when the bill had passed.—Did not you understand that it was a confidential committee, to be named with a view to have a place in readiness, that whenever the thing was mentioned in Parliament, the delegates would know where to meet, in order to draw up a petition against it? Yes.—Did not the convention frequently alter on one day, what they had done the day before? Yes, many things that I have written in these scrolls, were dashed out by order of the convention, and others were left as they were, till the committee should revise them.—Had the convention finished their regulations and appointed them, or were they only consulting about them, when it was broken up? They were only consulting about them, they had not finished, by any means.—There is a motion, which is said to be in my name; did you understand that I could have any other motive than that of regularity and good order? The expression surprised me, and I took but little notice of it.—Did you ever suppose I had any thing like a seditious intention in any thing that I did? So far from it, that I have heard you say, you was sure the only way to support the present form of government, by King, Lords, and Commons, would be to obtain a timely reform.—Do you remember when the motion, of the Duke of Richmond's plan of universal suffrage, was acquiesced in, I agreed to it, because that nothing less could overturn the corruption? Certainly; and we were sanctioned in that opinion, by what the Duke and Mr. Pitt had published, a dozen years ago.

Mr. Burnett.—Do you read the Gazetteer? Yes, but for several weeks past, I have received them and not read a single line.—Did you read the proceedings of the Convention? No, I did not, as they contained nothing new, I thought I would look at them at any time.—Do you remember receiving, at any time, from the pannel, an address from Dundee? I remember I saw that paper at a meeting of the Edinburgh monthly committee; it was handed to me by one of that committee as a curiosity; I did not receive it at that time from Mr. Skirving; I advised against its being read in our meeting, as there was something in it which, I supposed, might be construed seditious.

Mr. Skirving.—Does it consist with your knowledge that the Convention had any concern with the paper, called the

Gazetteer? As individuals we all wished it well as a paper, tending to the spreading of universal liberty, but not as a Convention.

George Ross sworn.—Examined by Mr. BURNETT.—What profession are you of? A clerk in the Gazetteer Office—Do you remember a hand-bill that was published in October last? Yes.—Do you know who composed that hand-bill? Yes, me and my brother; it was laid before the general committee of the Friends of the People, who ordered it to be printed. —Was Mr. Skirving present at that meeting? He was; it was afterwards published in the Gazetteer. Mr. Skirving refused to put his name to that, or any other which was not produced by himself.—His name was afterwards annexed to it? Yes; and there were some thousands of them published.—Did the Convention meet in consequence of that? No. There were several meetings of that sort.—Did you attend the meeting of the 29th October? Yes, and Mr. Skirving was there, he was secretary to the Convention of the delegates of the Friends of the People, but not secretary to the British Convention; there was a scroll of minutes of their proceedings.—Were any of their debates taken in short-hand? Yes.—Did you assist in taking them down? No.—Was there a particular place assigned in the Convention for the Secretary and short-hand-man? There was no place for the short-hand-man at all.—Were they published as minutes of the proceedings of the Convention? No. They were published as news.—Do you remember a motion for a secret committee? I remember there was a motion about a committee for appointing the place of meeting of the Convention, but I do not know how it came by the name of secret committee; I never knew the Convention call it by that name. —Was the pannel a member of that committee? I cannot say.—Was Mr. Margarot a member? I believe he was.—Was Mr. Browne? I cannot say.—Do you know any thing of a convention of emergency? Yes; in case any bill was passed to stop their meetings.—Was any other emergency mentioned? No. That is all that I recollect.—Recollect yourself, if you ever heard of any other case of emergency? The grievances of the nation.—Was any thing mentioned about foreign troops landing? I never heard of a French invasion; I heard of Hessian troops and Hanoverians being brought into the kingdom; it was reported out of doors, that in that case the Convention were to meet.—But you are sure you never heard of French troops landing? I am sure of that.

Mr. SOLICITOR-GENERAL.—Did you write any of these minutes? Yes, I did.—Look at that, and tell us what these words allude to: "the members stood upon their feet, and solemnly and unanimously passed the resolution as follows?" I don't know what it alludes to.—Was it the common practice to pass resolutions in that solemn manner? I don't know anything of it; I don't recollect what it was, but I suppose it was a resolution respecting the Irish Convention-Bill.—What follows is a blank; can you explain that? No, I cannot; I suppose it is misplaced.

LORD ADVOCATE.—Does it consist with your knowledge that this convention was divided into sections? Yes, I called them sections myself; I was a member of a section which met in an empty house in the Gazetteer-office stair, opposite to one Mullo's; it was our business to choose a preses; and if any motion was made the preceding evening, we made it our business to discuss it, and make ourselves acquainted with it.—Did your secretary ever make a report to the convention? Yes. [Points it out in the minutes, and reads it.]—Did you ever admit any strangers in the convention to hear your proceedings? Yes.—Was there any particular mark of honour or attention paid to them?—No; no particular mark of honour, except a seat next the door.—Did you ever form yourselves into a committee to take in a member? We have formed ourselves into a committee to read a newspaper, containing Mr. Pitt and the Duke of Richmond's resolutions.

Cross-examined by Mr. SKIRVING.—This report which has just now been read, you say, was written by you. Was it wholly done of yourself, or was it directed by the meeting? No; it was entirely of myself; the convention had no concern in it.—Was the committee on the Convention-Bill to meet for any other purpose than to draw up a remonstrance against it? I never heard of any other.—And was not this the reason for declaring the time of the meeting of the convention, to be at the time of the motion for a Convention-Bill, for the purpose of getting the remonstrance into Parliament in time? No doubt of it.

Mr. SOLICITOR-GENERAL.—Did you ever hear in the convention, a proposal for a resolution to be burnt? I don't recollect any such thing.—Did not Citizen

Sinclair make such a motion? Not that I know of.—[Giving him a paper.] Is that one of the Edinburgh Gazetteers? I believe it is; it looks like it.—Was it your intention to give the world an accurate account of these proceedings? It was, as nigh as we could make it.

Mr. SKIRVING.—Did the convention order the publication of them in the Gazetteer? No.—Or had any concern whatever with them? No.

LORD ADVOCATE.—Was it known to the convention that your brother attended and took notes for publication? I daresay it was to many of them; he was a delegate himself.—Is the pannel a subscriber to the Gazetteer? Yes.—Was he frequently in the Gazetteer Office? Yes; but not so often during the sitting of the convention as before.—Do you know his handwriting? I cannot say that I do.—Look at the minutes, and see if you there see any thing like his handwriting? I cannot say.—Look at the two last pages, and see if it is your brother's writing? No, it is not.—Do you believe it to be Aitcheson's? I believe part of it is.—Do you believe this to be Skirving's handwriting? I have not seen much of his writing.—Is that like it? I cannot say.

*David Downie** sworn.—Examined by Mr. BURNETT.—Were you a member of one of the societies of the Friends of the People? Yes; I was a member of the British Convention, and I understood Mr. Skirving to be the secretary.—Look at that paper and see if it was a motion that was made by you in the convention? Yes, it is. [Reads it.]—Look at that, and see if it is a motion of yours? It is. [Reads it.]

Mr. SKIRVING.—Did the convention pass either the one or the other of the motions you have now read? To the best of my knowledge they did not.

James Robertson sworn, and examined by Mr. BURNETT.—Look at that printed letter, and tell me if you know where it was printed? I printed exactly such a letter as this.—Was it by Mr. Skirving's authority that you did it? Yes it was.—Is that his handwriting? I cannot say; I am a very bad judge of any handwriting.—Did you ever employ him to keep your books? He has directed newspapers, and assisted me; but I say now, as I did to the Sheriff, I cannot positively swear that it is his handwriting, but it is something like it.—[Shewing him another paper.] Is that his handwriting? I do not know.

William Lind sworn.—Examined by Mr. BURNETT.—You are apprentice to Mr. Robertson, the printer? Yes.—Look at this, and see if it consists with your knowledge that that came out of Mr. Robertson's office? Yes; it was printed there.—Do you know by whose order? No.—Should you know Mr. Skirving's handwriting if you should see it? No.—Did he never write about your master's office? I believe he has, but I cannot swear to his writing. I have seen a great many people's hand like Mr. Skirving's.—Is that like his handwriting [showing him a paper]? It resembles it.—Is that like it [showing him another]? It resembles it.

Cross-examined by Mr. SKIRVING.—Did you ever see me write? Yes; I have seen you write two or three passages, or paragraphs, when the paper was going on.—And upon the recellection you have of what I then wrote, you think that is my writing? It resembles it very much. [A letter read, no address, signed Wm. Skirving.]

LORD JUSTICE CLERK (to Mr. Robertson).—Do you know what number of copies were thrown off of that letter? There were four or five dozen.

[The pannel's declaration of 5th of December read.]

LORD JUSTICE CLERK.—Have you any exculpatory evidence to adduce, Mr. Skirving?

Mr. SKIRVING.—The day is already so far spent, my lord, and it appears to me so unnecessary to bring forward any exculpatory evidence, the public Prosecutor having proved nothing criminal against me, that I shall entirely decline it, especially that even the witnesses for the crown have exculpated me, from every suspicion of seditious intention.

LORD ADVOCATE.—Gentlemen of the Jury, William Skirving, the pannel at the bar, stands charged, in this indictment, with the crime of sedition; a crime which has been known and recognised by the common law of Scotland, and by the common law of every civilised government upon earth, from the earliest records to the latest period; which, when stated, carries along with it, to every person who hears it stated, as precise and distinct an idea as the crime of murder, of robbery, of theft, or any of the greater or lesser offences, which are the subjects of criminal law, and the objects of courts of criminal justice to punish. The minor proposition of the indictment against him sets forth, fully and distinctly, the various

* This person was, several months afterwards, tried for high treason, found guilty and condemned, but ultimately reprieved.—*See Appendix.*

facts and circumstances imputed against this man, and from which the legal conclusion is inferred, that he has committed the offence, stated in the major proposition. To that charge he has this day, in your presence, pleaded not guilty; he has told us indeed just now, within these very few minutes, that it would be idle and impossible indeed, for him to avail himself, of that permission, to avail himself of that right, which the law of this country gives to exculpate his guilt, or alleviate it in any respect, by the examination of witnesses; because has had the confidence to state to you, that he does not think, nor does he see any thing, that has yet been proved against him, or any thing to be the subject of a proof in exculpation. Upon that point he and I are at issue; upon that point you are this night to return your verdict; and to speak, not with too much presumption, not with too much confidence; I trust, you will teach this man what, it seems, he has now professed himself to be ignorant of, whether his conduct is criminal, or is innocent; or, whether he is entitled, in your impartial judgment, to a verdict of not guilty, or to a verdict of acquittal, in respect that I have not proved my case to you. I must, for one, till taught otherwise by your verdict, against which it is impossible, either for the pannel or me, to lift up our voice with any effect in this country; I must consider it in a very different point of view indeed. I shall, in the sequel, take the liberty of stating to you, and of demanding from you, a verdict in favour of the prosecution. I shall state to you, that that verdict will be founded, not upon evidence of one kind or another, but upon a body of direct parole and written evidence, so satisfactory and conclusive, that, if your minds are not yet made up upon the subject, I trust, ere I sit down, to satisfy you, by selecting from that enormous mass of seditious—I had almost said treasonable matter, upon the table before you, that you cannot have a doubt upon your minds of returning a verdict in my favour. I hope to be credited, gentlemen, when I state to you, upon my own behalf, that although this person, who in the end of July last was taken up for his accession to that paper, which constitutes the first article of the charge against him; and, although it was judiciously and properly directed that he should not be examined as a witness against Palmer, who has already suffered a verdict of his country against him, as the person more directly concerned in the composition of that paper, I say, that I hope to be credited when I tell you that, if this man's conduct had been of a different complexion since the 13th of September last, the date of Palmer's conviction, although it was competent for me, at the meeting of this winter sessions, immediately to have brought my indictment against him, upon that fact alone, I trust you will believe me, when I say, that if that had been the only criminal matter against him, I should have found myself warranted, after what had passed upon two recent trials, after two unanimous verdicts of the country, in two separate parts of Scotland, signifying, in the clearest and most direct terms, a disapprobation of those proceedings; after the severe, but the adequate punishment which these two persons have met with, and are at present undergoing, that the example, which these had held forth, that the distinguished opinion, which the country had given upon the subject in those two cases, away from that prejudice which the pannel complains of to-day, that he and his associates labour under, among nine-tenths of the inhabitants of this country; a prejudice which, I trust, will last with the British constitution; a prejudice which is born in the minds of the people of this country, and which, after every artifice which has been practised by this man, and such as him, has failed of its effect so completely, that in place of having the diabolical effect it was intended to have, it has, from one end of Great Britain to the other, and in Ireland itself, it has only had this effect, *to wed them more deeply and earnestly to that constitution, which their ancestors purchased with their blood;* and which, I know, they will transmit inviolate to their posterity, not only against the attacks of despotism, and arbitrary power, but, knowing that the country is not to be led away by the republican principles of such men as this pannel, they have the good sense to see where the delusion lies, that they are not to be misled by the glare of false reasoning, and that they will support the King and Constitution, against all who dare to attack it. And though the great, the only object of human criminal justice, or of human punishment, is to hold out a salutary example to others, I think the conduct of this man, such as it appears to-night, and such as I shall represent it to you, ere I sit down, will satisfy you that, in this case, the benefit of example has been lost; and that, however proper or improper you may consider our conduct as public prosecutors, in having ne-

glected instantly to bring him to trial for the offence of which Palmer was found guilty, there is a hard, and a dire and a melancholy necessity indeed, imposed upon us to bring this man before you for subsequent conduct, that he may receive from you either an acquittal, or that punishment which he more than ever, after this pertinacity of sedition, most undoubtedly merits.

Gentlemen, the facts and circumstances stated in the minor proposition, though branched out into a variety of different articles, appear to me properly to be comprehended under two general heads:—His accession to the guilt of Palmer, in circulating (not composing) that hand-bill, which is there stated; and, in the second place, his endeavouring, from the 4th of October, 1793, when this hand-bill makes its appearance, down to the 12th of December last, when he made that extraordinary appearance at the cockpit in the Grassmarket; his endeavouring,—I cannot, indeed, use the word endeavouring,—but his persisting, during that period, in a seditious intent, manifested by his writings, and manifested by his conduct. And, I will tell him more, if he is so ignorant of the law and constitution of his country, as one would think, from his declaration to-night, he must be, that if that meeting at the cockpit had been followed by tumult, or by insurrection, coupled with his conduct at the convention for several nights before, he would have stood at this bar charged with high treason; and, as such, would have suffered, if convicted, a capital punishment, under the statute of Edward III. because it could not be construed into any thing else but levying war against the king, under that statute; and I will tell him more, that, when these indictments were preferred against him and others who now hear me, and who must soon stand before a jury of their country likewise, that it was very dubious, among those who stood at the head of criminal justice, whether it did not warrant us in such a prosecution; however, we have taken the more lenient, and, I trust, the more proper line of conduct; he and they stand charged with sedition; but of the truth or falsehood of that charge, and the sufficiency or insufficiency of evidence, it is not now my business to argue upon: it will be hereafter your province to give your verdict.

Upon Palmer's paper I shall offer but a very few observations. A respectable and an impartial jury, as all juries in this country are, and as all juries must be, I care not for those injurious aspersions which men, such as these, presume to throw upon their conduct; and as little do I care for those arts that have been made use of to intimidate them in their duty: I say, this has already been stamped by a verdict of the country as a seditious, inflammatory paper, and the person who composed it found guilty as such; but, God forbid that the judgment of any man—that the opinion of any court—that the authority of any man, or set of men whatever,—should influence your minds one moment, or prevent you from taking that paper under your own serious consideration, and judging of its import and tendency, in a manner as free and as untrammeled as your powers are ample, as if it was now for the first time brought under your consideration. I desire you to read that paper. I desire you to consider with yourselves if it is a paper such as Palmer professed it to be, merely for obtaining a reform in Parliament, and which he gloried in the circulation of; if you are of that opinion, it is idle to inquire whether the fact of circulation is proved or not: he is not only not guilty, but has done that for which he is entitled to praise, and which does not merit censure;—but you will peruse that paper; and if it appears to you, as it does to me,—as it does to the Court, by their permitting it to be considered as relevant,—a most seditious and inflammatory libel, to tell us, "The time is now come, when we are to assemble round the fabric of liberty to support it; that we are plunged into a war by a wicked ministry, and a compliant parliament;" when it is not the parliament alone, but the united voice of the country has justified us in going to defend ourselves in a war with a neighbouring nation; if that should be your opinion, it will be your business to inquire, how far the fact will bear you out; and I should think I obscured, instead of illustrated, if I did any thing but desire you to look upon this paper with a favourable eye to the pannel; but you cannot but agree with me, that it is as seditious and inflammatory a paper as ever was circulated among the inhabitants of this country.

Gentlemen, among the papers produced, is one of the records of the court, a petition of the pannel; he being taken up as guilty of an imputed offence, and after having it in his power to give bail for his appearance, he chose obstinately (from some desire of reform I suppose) to refuse to give bail, and insisted on his immediate liberation, and that the officer of

justice should be incarcerated in his stead; or, at least, insisted before this court that it should be served upon him, when your lordships scouted the idea. In that paper he tells you, that "the chief business of the Friends of the People, as preparatory to the reform in parliament which they sought, was the information of the public as to the grounds of parliamentary reform, its importance, and immediate necessity. Your petitioner, therefore, judged it to be his duty, as secretary, to submit every information to the public which he received, and thought calculated to illustrate these points; and the individuals and societies who had it in their power to give such information, naturally transmitted the same to him as secretary."—Why, here is an explicit and an avowed declaration, upon his part, that the information of the public, and the grounds of it, were what he was bound to lay before them; and, if you consider that paper as such an information, as you will permit with impunity to be circulated through all parts of Scotland, I give up the question at once; you ought to return a verdict in his favour. He also adds, "Your petitioner has already suffered too much for attempting to prevent the overthrow of the constitution of his country, by the overweight of any of the branches against the other, to be guilty of willingly assisting in any such design. He considered the paper complained on as merely the strong effusion of honest hearts, alarmed by the measures of those in administration, judging the constitution in the utmost danger, and catching at the first grounds of alarm which presented themselves to their view."—This confession of his own is confirmed by one of the declarations just now read;—it is confirmed by the testimony of Morren, and of Kid, both of whom, though with considerable reluctance, deponed to their receiving such a copy of it from him; and that he was the person who appeared to have the charge of it. Morren, indeed, distinctly goes to this, that he received the paper from Palmer for publication; that he was desired to give so many copies to Skirving if he called for it; that he went afterwards to Skirving's house; that Skirving sent somebody for it; that he received an hundred copies; they are found circulating through the town; and when the repositories of Skirving himself were searched, the hundred copies were all expended to two or three, or something within half-a-dozen: you will consider if that was not all that remained out of the thousand copies which were thrown off; and which these gentlemen were to send round to the public; with regard to the important business of reform, Skirving having one-tenth part of it in his own possession, distributing them among different persons; and only one or two appearing to be left, you will consider whether you have not distinct, satisfactory evidence, that he received those papers, knowing the purport of them, and glorying in them, whether the fact is not clearly and distinctly proved (not being contradicted upon the part of this man), beyond the possibility of denial.

Having said so much upon this part of the charge, I come to the most material, the most important part of it,—I mean all these proceedings from the 4th of October, 1793, down to the 12th of December, 1793, when the authority of the civil magistrate was contemned and despised; when nothing but the vigilance and exertion of the magistrates, to whom the country owes much for that public spiritedness with which they conducted themselves upon this trying occasion, could have dispersed this seditious, this illegal, and, I had almost said, this treasonable meeting. But the hand-bill of the 4th of October is very candidly to-day owned by one of the Ross's, and I have no objection to give him the credit of that elegant composition. I only impute to the pannel the criminality of having lent his name, as secretary of this general committee, to authorise its circulation into the world; and, as such, having become responsible for it. It appears, from Ross's account of it, to have been wrote by both of them jointly; it was wrote the evening before the meeting of the general committee, at which Skirving is proved to have been present; and though, from a particular kind of frailty of memory, which seemed to distinguish both those able brothers, they did not precisely recollect every question which came from one side of the table, though, when they came to be questioned from the other, that recollection revived in a most extraordinary and a most amazing degree; although they did not perfectly recollect what he said upon the subject, they only recollected that he would not put his name to any thing but his own composition; there is enough to shew you that, if he would not as an individual, yet he had no objection to do it in his official capacity; *in which capacity he now stands at your bar, as Secretary to the Convention of the Friends of the People:* it is perfectly clear that, as he never, in the smallest degree, complained of that seditious hand-bill being handed

about with his name to it, by which he ratified and approved of the proceeding. He has not told you, nor dare he tell you, that, when the paper was sent into the world with his name to it, he did, as every honest citizen ought to do, revoke it, and publish to the world who were the persons guilty of it; and, therefore, you must hold him as a person responsible to you, and responsible to the country, for this hand-bill, circulated with his subscription annexed to it, and under his authority, though the two Ross's are perfectly satisfied that they wrote this hand-bill, and that Skirving did refuse in the meeting to sign his name to it.

Gentlemen, is it possible to read the concluding paragraph of this paper, coupled particularly with the preceding advertisement of Palmer's, in which he is proved to have so distinguished a share; is it possible to read the concluding paragraph of that paper; holding out a menace to an association, numerous beyond example, which took place last year, when every good and worthy man in the country, of all ranks and denominations, was found subscribing to it? Can you read it without discovering an insolent and audacious menace to them for that conduct? if they did not retract, and the Friends of the People would be innocent? What were they associating for? For the protection of liberty and property.

It also contains another menace, equally seditious, and equally illegal. It is true the inhabitants of this country have a right to petition parliament for a redress of grievances; but is this, or any man, or any set of men whatever, entitled, when the country is at peace and in quiet, to send such a hand-bill as this among the people,—to sound the trumpet of alarm among those who are contented and happy,—to threaten even those men who may, in the moment of delusion, have been led to join in their proceedings, but who became satisfied, as ninety-nine persons out of a hundred are satisfied, that their proceedings are not tending to reform, but to subvert the constitution of this country; and I know there are many well-meaning men who, having been led by false reasoning, imposed upon by the glare of some man's sophistry, or the cant of some man's enthusiasm, have now withdrawn themselves from that society into which they had once been deluded, and that conduct which they had once been betrayed to follow. He tells you in this advertisement, that those members who do not attend, or send an excuse, will be publicly called upon; and this is a paper of which thousands were thrown off, as Ross tells you; those men, therefore, who chose to retract or alter their opinions, who chose to come back and join the majority of the country, to be faithful and loyal to their king, and attached to their constitution, had this menace held out to them, that they would be publicly called upon, in as public a way as this paper is circulated, to intimidate them from following the dictates of their consciences, and exciting them to join in forming an arbitrary government, worse than that despotism of which a neighbouring country affords an example; domineering over the minds and bodies of their countrymen, and owning no authority but that which they mark with atrocious acts of injustice and cruelty.

Gentlemen, let us now come to the material point of the case: let us consider the proceedings of the British Convention of the delegates of the people, associated to obtain universal suffrage and annual parliaments; a convention which, in its name and in its object, though the meeting was originally, and has for some time past, gone under the name of the Friends of the People, and only holding out, as their end, the obtaining a reform in parliament, has now, with an audacity which has excited, not the attention of this metropolis, not the attention of Scotland alone, not the notice of England only, but of Ireland, and, I believe, of the whole empire at large; which has attracted the attention even of France itself, and been there the object of admiration; a meeting which, in its avowed object, tends, not to reform, as they pretended, but to subvert the constitution. Let these men argue as they please, let them declaim till they are sick, universal suffrage is a thing which the constitution of this country never did recognise, for the best of all possible reasons, because it is impracticable; and if ever attempted to be carried into execution, as it was well observed by my eloquent friend to-day, would tend just to the precise same effects and pernicious consequences which we have seen, to the astonishment of the present day, in a neighbouring country.

Gentlemen, two things are to be materially weighed and considered by you upon this indictment.

In the first place, if the proceedings of that meeting, of which this man was a member, and not only a member, and an office-bearer in it, but, as I shall afterwards prove to you, in evidence, the ringleader, and chief instrument in calling it together,

the first thing you must consider, with deliberation and care, is, *was it, or was it not a seditious meeting?* In this country, you have always possessed the right of determining the law, as well as the fact; your opinion must be made up upon the point. Is this meeting seditious, or not? And, if you determine it in the former case, then you will inquire into the sufficiency, or insufficiency of the evidence. It shall be my business to endeavour to satisfy you, that you have every evidence of the seditious nature of it that you can reasonably require, and that the nature of the case admits; more indeed than, I believe, could have been expected from a meeting, such as this, which, with all its avowed pretexts and pretentions, I will point out to you in several parts of their conduct, their own firm conviction, that they were acting a dangerous part; and that the conduct that they were following was not such as the law of their country recognised. It seems, from some parts of the evidence, which I shall immediately notice, that they could not even in these meetings stifle their own consciences; there was that silent monitor within, which, (with all that pretence of reform, and that confidence which some have expressed to-day, of the legality of their proceedings,) whispered to them this, that they were carrying on a kind of conduct which, if discovered, they must suffer for, and proves their own conviction of a sense of the seditious nature of their proceedings. In a country such as this, nor indeed in any country, possessing an established system of government, and much less, in such a country as this, where the opinions of the people are made up upon the wisdom of that government, and are attached to it, by the surest of all ties, if the magistrates are active in the execution of their duty, it is not to be expected that any such meeting as this would directly avow an attempt to subvert the government, or constitution of this country; you may rest assured you will always find some pretext or other held forth to cloak their proceedings, till the moment shall come when they shall think it safe to avow them. Had we at present been trying the conduct of this man, by any thing which passed in the four first days of this convention, before they assumed that name which they have taken to themselves, and before they came to choose resolutions, which I shall in the sequel read from the minutes, we should have had such a case before us that you would have had to decide whether they were really and truly meeting for the purpose of a reform, or whether they were acting under a mask for the purpose of destroying the government of the country; but from the date of the assumption of this name, and during the subsequent week, or ten days, these gentlemen have done away even the shadow of a mask over their proceedings; in every mode of their proceeding, every resolution which they adopt is framed directly and positively upon the model of the French convention; and I desire you to take this along with you, when you consider this subject, that although this meeting was illegal in every part of it, that it is because it is a convention, forming itself upon the model of a nation, with which we are at war, proving itself to be so by every means they could adopt to satisfy all the world, that that was their intention, except that they have not said we desire to have a French republic formed here, substituted in the place of our own, except, that they have not said so, *totidem verbis;* every other circumstance of their conduct directly points to that object alone. They make use of the term citizen. A smile I observe to drop from the pannel at the bar, and from his friends who, I understand, are now sitting round him, and some of whom, I am afraid, must soon stand in his place, as if the assumption of the word citizen, was of no importance, and as a very high, and a very distinguished member of this society, the deputy secretary, declared, that as a Burgess of Edinburgh, he should blush for himself if he did not think the name of citizen a good one; it is true we are all good citizens of Great Britain; recollect this, it is used in a meeting professing a purpose which is incompatible with the constitution of the country: and take along with you this likewise, that the term citizen, being used in every subsequent part of their proceedings, shews what the purport of their proceedings were. In that case it comes to be material, like the case put by my learned brother, that he who a few years ago, with a white cockade in his hat, should have marched to the castle-hill of this city, and fired a few shots at it, would have been treated as a madman; but he who, in 1745, had been guilty of the same thing would have atoned perhaps for his conduct with his life. The term cittzen, of itself, is no crime; but used in this manner, it is a circumstance, in the chain of evidence, to shew that they are a set of French Conventionists. I give them no other name; and that, as such, they are offending against the known criminal law of this, and every other coun-

try upon earth; and, as such, are seditious. You find they have committees of finance, of instruction, of orgaoization; in short, there is not a single entry, not a single motion, not a single step taken by them, which is not precisely formed upon the model of the French Convention: they date their proceedings in the first year, not of liberty indeed, but of the British Convention—members are admitted to the honours of the sitting; and, in short, every thing exactly upon that model.

Gentlemen, I stated to you, that the evidence in this case, was not only direct and proper, but what is much better, it is written evidence, which cannot be mistaken, which must be true, and upon which, in the course of your duty, you are to form your opinion. Gentlemen, it was not till we had full information of the extent to which their proceedings went; nor, indeed, till they themselves entered in the Edinburgh Gazetteer, that which Mr. Aitcheson told you, was a paper favourable to liberty and to reform, till they had entered in that paper the proceedings of their Convention, that a warrant was issued for their dispersion, and for the detention of their papers. The paper has been identified in the most satisfactory manner, as indeed every other has, except article twenty-four, and it is your duty to take them into your consideration.

Gentlemen, I shall now state that which, of itself, is sufficient to denote the seditious nature of their proceedings; and I shall dismiss what I have to say upon that second and last topic, in a very few words, and I shall confine myself to that particular motion which was made by Mr. Callander; I beg his pardon, I mean Citizen Callander, for so the motion stands, which I shall report from the minutes; and I shall beg leave to take some little time in commenting upon them; and, I trust, I shall not unnecessarily trespass upon your patience, if I follow the minutes from the first appearance of this motion, respecting the *Convention Bill*, till by the sudden and unexpected arrival of the magistracy, an end was put to all the proceedings upon the subject.

Gentlemen, upon the sixth day's sitting (I read exactly the words of the motion), being the 25th of November, and Mr. ——— Citizen, President, being in the chair, Citizen Callander moved, "That in case the minister should bring into the Commons House a motion for a Convention Bill, such as was passed in Ireland, it should be noticed immediately to the delegates."—By the form of their proceedings it should seem, for those gentlemen conducted themselves with amasing regularity, that this motion was not taken up at the same sitting that it was made, and we see no more of it till the next day, when we have the following account of what passed upon the subject. Mr. Mealmaker in the chair. [Reads from the minutes.] John Gartly,—he, I understand, is the town drummer of Paisley.* Margarot was for adopting the spirit of Callander's motion, but thought "it would be most advantageous to postpone it till the conclusion of the Convention business."—Margarot moved, &c. [Goes on reading.]—Also, upon the twenty-ninth day of November Citizen Mealmaker in the chair, passed a resolution as follows.—This is in the handwriting of George Ross, a gentleman who occasionally officiated as secretary to the meeting; then there is a blank of a page follows in the minutes; and then Citizen Gerrald makes an animated and an energetic address, expressing his happiness at the motion passed, that a secret committee of three, and the secretary, should be appointed to determine the place where such convention of emergencies should meet. Let me stop here, and direct your attention to what the minutes have now directly proved to you, and to what Ross has, with so much reluctance, said: let me direct your attention to the three papers of the Gazetteer, marked Nos. 78, 79, and 80, and though there was a reluctance in the Ross's to account for the blank in the book, I shall be able, I think, upon solid grounds, to satisfy you why this blank was left in the minutes, and that motion, which was made by Sinclair, to have that paper burnt, was not what Aitcheson told you, the motion for a secret committee, which appears two pages afterwards; but was a motion for a Convention of emergencies, and that convention founded upon cases, founded upon circumstances, which I confidently say, verge upon an act of treason. Citizen Margarot moves, "That a secret committee of three and the secretary be appointed, to determine the place where such convention of emergencies should meet." Look at these minutes, and see if you can find any prior mention of such a Convention of emergency; its name itself proves that this measure was under previous consideration, and was now determined upon, at the moment that Mar-

* This is one of the gross falsehoods invented by the opposers of Reform, for the purpose of throwing an odium on the cause of Reform.

garot made his motion for a secret committee; therefore, it is clear to demonstration, by real and convincing evidence, that the blank in the minutes, which precedes this speech of Gerrald's and Margarot's, must relate to that convention of emergencies, and not to that secret committee which follows Margarot's speech.

Gentlemen, I know not whether, in the heat of argument, I may make myself understood, but I am satisfied of this, that you must concur with me, not only that both the Ross's, but Aitcheson, did this evening conceal the truth, to give it no worse an appellation. I think, this circumstance proves, by real evidence, that what they said is not the fact; and proves, that something did pass, for which this opening was left:—to wit, the appointment of a convention of emergency, which Margarot, by that subsequent motion of his, clearly and distinctly points out that something of this kind had passed before: for, if you find any thing of it before, my argument is good for nothing; —but circumstances do sometimes happen to come out in evidence which the most artful cannot foresee, and which the most wicked cannot guard against; and, I say, this speech of Margarot's is as decided and as fortunate a circumstance, to shew that this blank is meant to be filled up with that motion for appointing this convention of emergency, as if you had seen the motion before you. Mr. Aitcheson tells you, that he came to the meeting at about half-past ten, and was informed that there had been a motion respecting a secret committee, and that Citizen Sinclair said it should be burnt; that Aitcheson exclaimed against it, and said, that their proceedings were fair and open, and the motion was not burnt. But mark this also, that every part of the minutes, previous to the blank, is admitted to be in the handwriting of Ross; every thing after the blank, is admitted to be in the handwriting of Aitcheson;—it is therefore perfectly clear from Aitcheson's account, that this secret resolution, which he swears was come to by the convention, before he entered the room, and which they told him he was too late in giving his vote against, could not be that secret committee which was moved for after he came into the room, but must have been the motion of Citizen Callander, which Citizen Sinclair wished to be kept secret, and was afraid should see the light.

I hope, and trust you follow me in the argument, because I think what I am now stating is circumstantial real evidence; that this motion for a convention of emergency was meant to be put into this blank. It was Sinclair's motion, to which Margarot afterwards alludes, previous to the appointment of the secret committee, which appears in the minutes, in the handwriting of Aitcheson; but leaving the previous blank for the insertion of Sinclair's motion. Before I go any farther, I beg leave to refer to a paper which, with great difficulty, the Ross's admitted to be at least the substance of their proceedings; and that fills up, in a measure, this blank in the minutes. In this paper, Mr. Scott, the printer of the Gazetteer, tells you, that it is an accurate account of the proceedings of the British Convention, down to Monday. [Reads from the Gazetteer.]

One of these gentlemen was a short-hand writer, chosen for the purpose of publishing their proceedings; and, I hope, I may be allowed to assume, that this Gazetteer, though it may not, perhaps, tell every thing that they did, yet upon the authority of the two Mr. Ross's, and upon the authority of Mr. Scott, the publisher, that it does contain, at least so far as it goes, an accurate account. Let us see whether this was merely the motion for a secret committee which appears in the minutes, or whether it was not a motion with regard to the nomination of the convention of emergency, which I told you he was so very willing to have burnt; what does he say? On the Thursday, Mealmaker being in the chair, they were for adopting Callander's motion—and then it was referred upon motion to a committee. "The committee reports progress, and asks leave to sit again," &c.

You will consider, whether the bare nomination of a secret committee could be the subject of this serious and solemn address of Sinclair's, or whether it was not the cause, the motives, and the cases under which the convention of emergency was to be assembled which could alone claim this serious attention, which could only be supported by their uniting, which underwent a long discussion, and received several amendments; and, when the Convention was resumed, it passed unanimously in the form of a declaration and resolutions: but, being ordered to stand the last article on the record of the proceedings of the Convention.

You have it then distinctly in evidence, that the motion of Sinclair was not that which Margarot, half-an-hour after, made for the appointment of a secret committee, it is impossible it should, from the

circumstances of its being kept out till the termination of that session, which termination never arrived; and then, Mr. Gerrald rises and makes a speech—compare the Gazetteer, it tells you, Gerrald rose to congratulate the Convention on the adoption of this resolution, not only on the propriety of the motion itself, but on that unanimity and that solemnity with which it was passed, tallying exactly with the words in the minutes, that the Convention rose solemnly upon their legs. Then is it possible for you not to believe that this blank, the only blank in the minutes, was left for the purpose of entering Sinclair's motion at the termination of the present session, and that it was this motion which they passed with so much unanimity, which Gerrald congratulated the Convention upon, in such an animated, energetic, and manly a way as they tell you. I say, the subsequent motion of Margarot, which followed from, and was a consequence of the previous antecedent resolution, could not be the motion intended to be put into this page. I will not give you all Mr. Gerrald's speech—he would have stood in that place the day after to-morrow, but he is indulged, at his own desire, to have his trial put off; but he shall stand his trial in this court, before he and I have done with each other. After all this you have a long speech of Margarot and Browne. You will hear what this Gazetteer then tells you; after stating Gerrald's speech, which congratulates the meeting upon the motion already passed; after stating Browne's speech at the length of a page and a half, and, you will attend to this, a secret committee was appointed to fix a place for the meeting of the convention, under the circumstances mentioned in the preceding resolution. Am I wrong then, or, am I unfounded in the view which I am now giving of the evidence, to satisfy your minds that it is founded upon the nature of the case; founded upon evidence which cannot err, and which cannot be mistaken, that this convention of emergency, and the cases in which that convention were to meet, was the motion for which this blank was left, and was the foundation and the basis of that last meeting moving for a secret committee, which the minutes bear to have been moved by Mr. Margarot, and which follow after the resolution of Sinclair; that business, which they would not dare to meet discussion upon, whether it should be secret or not; when Aitcheson called upon them again to go over it, they said the resolution was already come to, and it was now too late, though he had the confidence to tell you, that he thought this secret committee, which appears in his handwriting at the foot of this page, was the secret committee to which the motion alluded. I hope and trust, that, if I have done wrong at all, it has been in using too many words to satisfy you how the truth stands, notwithstanding all that reluctance to tell the truth, which is so conspicuous in all these persons, and that what I have said, and only that can be, and is the truth.

Gentlemen, let me look back again to the minutes; I am sorry to trespass so much upon your time, but I feel it a duty, incumbent upon me, and I confess I feel some kind of anxiety in a cause of this nature, however clear the evidence may be, for the sake of my country, or for my own satisfaction at least, to leave no argument unstated which may be necessary for your subsequent deliberation. Mr. Margarot moved for a secret committee; and that each delegate shall be entrusted with a sealed letter, containing the name of the place of meeting, and the following Citizens were named as a committee. There are only four members; and yet those persons, Aitcheson, who wrote the minute, and Ross, and his brother, the assistant secretaries, who gave it as an article of news to the public, could not remember the names of those four persons, though such distinguished characters as these gentlemem are, Messrs. Margarot, Skirving, and Browne, they could not recollect their names, though three of the members, which constituted this secret committee, are now at that bar.

Now, gentlemen, at the end of the meeting, it is moved by John Clarke and Matthew C. Browne, "that a committee of observation be appointed in London, to give the earliest information of that kind, mentioned in the foregoing resolutions." Clarke moves the very same evening, "to establish a committee of observation."

They may certainly pretend what they please, but the resolution of Sinclair was that by which the convention of emergency was appointed. This lies over till next day, in common form. The next day, the 29th November, in the first year of the British Convention, anno Domini, (which I wonder they did not discard) 1793, tenth day's sitting. The secretary read, according to form, the previous motion of Clarke for a committee of observation, to be appointed in London.

Citizen Margarot said, "there was no occasion for a committee of that sort, as there were some thousands of persons in that city, upon the look out;" I hope there are, gentlemen. On the evening before the convention was broke up by the civil power, when they had sufficiently provoked the vengeance of the magistrates of this city, who took those steps which ended in a complete detection of the whole; and it seems we have been blamed; it is said, "why were these men permitted to proceed so far as they did?" Gentlemen, they were permitted to proceed till we had our information complete; and till we were ready to strike that blow which was struck, and upon which we recovered every species of evidence that was necessary; and, it should seem, it had even reached the ears of those persons; for, on the preceding evening, it appears that Mr. Margarot had either heard or suspected that they were now come to the very utmost point of their guilt; and that the sword of justice was just ready to descend upon them; the very evening before the other motions lying before them were dismissed, and Margarot got leave to bring in a motion to the effect, "that the moment any illegal dispersion of the British Convention, should be considered as a summons to the delegates to repair to the place of meeting, appointed for the convention of emergency by the secret committee, and that the secret committee be instructed to proceed, without delay, to fix the place of meeting." The Convention having considered the motion fully, unanimously resolved the same, and appointed the secret committee to proceed as desired. Early the next morning the ringleaders of this party were apprehended, before day-light, in their beds, and all their papers seized.

Now, gentlemen, permit me only to remind you of the evidence of Aitcheson and the two Ross's, however ignorant they were, you recollect they were extremely reluctant to speak out upon the subject of this Convention; both of them concurred in telling you at once, I believe the last did not remember any thing at all about the matter, but the two former, Aitcheson and William Ross, did tell you, that in case of the parliament moving for a *Convention Bill*, similar to that of Ireland, that that was one of the cases under which this convention of emergency was to take place. They admitted that fact completely, which they thought was very innocent; but I beg leave to state, that it is the very reverse; and if I had nothing more to argue upon, in support of my proposition, that the proceedings of this Convention were seditious and illegal, I would ask nothing more than they themselves have admitted, the purport of Citizen Callander's motion; and this case of emergency, as they themselves state it. Gentlemen, is it possible that you can permit any individual, or set of individuals, for any reason whatever, true or false, real or pretended, to set themselves up in opposition to the legislature, to take measures for thwarting them in their deliberations for the public good, to appoint secret committees, to call together delegates for thousands of persons, as they tell us, they are to fix upon a place to rally; and, if government do proceed to act as the Irish parliament have done before them, that that shall be a signal to rally to a given point, and for what purpose? The purpose is not spoke out, but it is your duty and your business to consider, that if a quiet and peaceable petition to parliament is, *as we all admit, a reasonable and a proper step*, yet if you confound with that right to petition, a secret appointment of this nature, the moment that such a Bill is brought in, to convocate and call together in one given point, the delegates from numbers of persons all over the country. Shew me sedition? Tell me what it is? Is it possible for you to conceive any thing more directly falling under the name of sedition, than this resolution of Sinclair's, a step actually taken by them, to carry that seditious intent against the parliament into execution; they appointed a secret committee, whether they appointed a place of meeting or no, I don't care, for I take the meeting in the cockpit to be something like it; here then is a seditious intent acted upon, as far as the magistrates suffered them to act upon it. Gentlemen, I believe you see here, before you, one half of the British Convention of the delegates of the people,—*the worthy representatives of eight millions of people*, and four persons two of them now at your bar. Are those men fit to be trusted with the power of petitioning parliament peaceably and quietly? or did it require that these people should appoint a secret committee to watch the motions of parliament? or was it necessary for a peaceable appeal to parliament, on this, or any other question, that a convention of emergency should take place? I say it was nothing but an attempt, if it was possible that the good sense of the country should be so misled, to take the first step in that system of anarchy and

disorder which they wish for, and which has *taken place* in a neighbouring country.

Gentlemen, the conclusions will be unquestionably for you to draw; you are to judge of men, not by their professions, but by their conduct; and if you can reconcile their conduct in any respect to quiet, to legal, to constitutional proceedings, I will give up the point. Gentlemen, I might have rested upon this case of emergency, but I say it does not rest there, the legal dispersion of the meeting is proved to have been an additional case moved and carried in the convention, upon the evening of the 4th, when they were apprehensive of being laid hold of. And will you permit this man, or any set of men whatever, in the face of your magistrates, who are obstructed in the execution of their duty, will you permit them to make, what they call an illegal dispersion of their meetings, also a signal of this rallying of the convention of emergency, in which Mr. Gerrald rejoices and exults, and which Sinclair tells them, is to be supported by their united efforts.

Gentlemen, last of all comes what depends upon the evidence of the first Ross, and upon the evidence of Aitcheson, what is proved is, that one case of emergency was that of a foreign invasion. Ross called it a French invasion. I think the other man called it a foreign invasion, and young Ross said it was in case of Hessians and Hanoverians being brought over, but not a word of the French. Gentlemen, you will judge of this Convention with all its French terms, whether young Ross is to be believed, or Aitcheson and his brother is to be believed; you will consider whether the emergency of a suspension of the Habeas Corpus act, or of a motion in parliament for a Convention Bill, similar to that of the Irish one, does or does not prove it to be a meeting for seditious purposes; you will consider what purposes they, if they were peaceably inclined, could serve, whether such a delegation, from thousands of persons, was not calculated for some other purpose. It remains unascertained, and unexpressed, because it durst not be expressed, whether this convention of emergency was for the raising a French invasion, or supporting it; you will consider, holding the balance of evidence strictly between the pannel and the Crown upon this subject, if upon viewing the conduct of these gentlemen, if upon observing Skirving glorying in a paper which accuses the parliament and the whole body of this country of injustice; going to war with a nation merely because they will be free; if upon looking to citizen president, and citizen this, and citizen that,—to the divisions into sections, to the *Vive la Convention*, which appears to one report, and *ça ira* at the bottom of it, admitting persons to the honours of the sitting, if you are to subvert the constitution of your country, by putting in place of it universal suffrage, I call upon you, as honest men, if you can throw these circumstances altogether from your minds, or if you think these men were met together to resist an invasion, if such a thing should happen, then you will say so; but if, as my opinion is, their purpose was to assemble a convention of delegates, representing, as they say, thousands of people, then the conclusion is inevitable, that the purpose for which this convention met was to join those persons whom we know within these few months have dared to hold out, in their own country, that they would land an army in this, and establish what they pleased in it; would punish London, the proud metropolis of Britain, for its interference and defending itself as it has done, you will be of opinion with me that they meant to lift the hand of rebellion against their sovereign—the constitution of their country, and the liberty of their fellow citizens.

Gentlemen, before I sit down, I hope I shall not be accused of unnecessarily trespassing upon your time, when I profess the authority from which I draw it, the reading, as part of my speech, that of an able and intelligent man, pronounced very lately upon this very subject, I mean the Irish Convention Bill, and I think I cannot be imputed a panegyrist if I take the words of the Solicitor-General of Ireland. When the convention was moved for last summer in Ireland, it received all the censure, it was made the handle of every topic of abuse, and of an attempt to inflame the minds of the Irish against it, but the minds of persons in that country, of a similar description to those here, could not possibly listen to such a censure, it received an ample discussion in parliament; and, to the honour of opposition in Ireland, who have in a great measure followed the honourable and patriotic conduct of the opposition here, though Mr. Grattan, the *chief* of their leaders, was for limiting it to a certain time, it was universally admitted to be a measure which no country could tolerate; and which, in some effectual way or other, though they differed in the mode, they were bound to resist. Gentlemen, give me leave to

read part of his speech upon that subject, because it is immediately upon the point before us; and farther, because it is more eloquent, better composed, and more argumentative than any thing I could say upon the subject.

[He here read an extract from the Solicitor-General's speech in the Irish Parliament.]

I ask yourselves, if that gentleman stood in this place, addressing you, instead of the Irish Parliament, if the circumstances would not precisely justify an adoption of the same language? We have a parliament assuming to itself the name, not of England alone, but of England and Scotland, upon the French model, partaking, in all its proceedings, of the distinguishing marks of the proceedings of France; and I appeal to a speech of Mr. Browne's particularly, as Mr. Margarot boasted that thousands in London were upon the look-out, so he encouraged this meeting in Blackfriars'-wynd, telling them, that at Norwich, and Sheffield, and everywhere else in England, there were many thousands, of whom he was the worthy representative, who had delegated him to this meeting. Gentlemen, there were also contributions levied upon the poor and the ignorant, the deluded and infatuated; many of these persons were brought here to-day before you. You saw their appearance and their situation in life. Aitcheson, indeed, is in the employ of some gentleman or other; but look at the list of those persons, and you will consider what Skirving has to answer for, or what others of a higher description have to answer for, who, with the aid of superior talents and discernment, have knowingly propagated the contagion among such persons, by discourses and by proceedings of that kind which are laid in this indictment.

Gentlemen, I think I have now gone through the greater part of what it appears to me to be necessary to state. In the division of the sections you will find it to be equally clear and distinct; the honour of the sitting; a compulsory attendance: in short, in every point after the model of the Convention of France. And they pass to the order of the day; when one person, a gentleman whom I shall not name, because he must soon be responsible at your bar for his conduct, appears and attacks the verdict of an English jury, and the sentence of the Lord Chief Justice of England, he is admitted to the honour of the sitting. I say this upon the authority of the minutes. And, in one particular motion, I think made by the secretary, a regulation is made that no stranger shall be admitted to the honours of the sitting, unless recommended by two members, and a variety of other circumstances, which it will be unnecessary for me to state; but I pledge myself, without fear of being contradicted, that every single word that I have now stated stands upon these minutes. Here is a motion made by Citizen Ross, with *vive la Convention* at the top, and *ça ira* at the bottom of it; here you have a body of circumstances together, perhaps each of them *separatim*, insufficient to found any serious charge, but all taken together, directly pointing to shew that it was a meeting of a seditious tendency; besides that, you have a motion made by Mr. Margarot and Mr. Callander, copied, I believe, exactly from one of the resolutions of the French convention. Then comes Mr. Downie's motion, and, in one word, to bring the whole distinctly to the pannel, that, as he was the secretary, so he is the chief tool and instrument in bringing them together; it is proved, in the most complete and satisfactory manner: first by the motion of Downie, which describes him completely in that character, and on that account alone, as being the chief spring and the very soul of all their proceedings, he seems to be indulged with the power of speaking oftener than once. You have also two letters produced, which calls upon these delegates, in the most inflammatory manner, who had gone away previous to this, to return to their duty at this awful period, and come to their posts! You have also, what is still more material, and proves distinctly, that this Skirving is the person who formed the idea of this delegation, and of this meeting; that he is the person to whom this country is indebted for that wonderful advantage which they have derived from the presence of Messrs. Margarot, Gerrald, Browne, Callander, and Sinclair. Here are two letters found in the repositories of Skirving, one of the 5th October, 1793, dated London, addressed Mr. William Skirving, head of the Horse-wynd, Edinburgh, signed Thomas Hardy; two days before the meeting of the general committee, containing an observation which goes to attack the conduct of the jury, and of the supreme court of judicature of this country.

Gentlemen, this proves, that, upon the 2d of October, Mr. Skirving had wrote to Mr. Hardy, the secretary of the London corresponding society, stating, that which

Hardy says is an excellent opportunity, that he had suggested the plan of a general convention; and it contains an observation which, I hope, will be made by these gentlemen upon the chief magistrate of the city of Edinburgh, who has just followed the conduct which Sir James Sanderson followed, and for which that magistrate has received the thanks of, I believe, nine-tenths of the city of London. Upon the 24th of October, Hardy writes again to Skirving.

Gentlemen, I have now gone through the whole of the evidence. It remains for me only, in a very few words, to consider, which I shall do very briefly, the proceedings consequent upon this. You have the evidence of Mr. Davidson the Sheriff-substitute, of the Lord Provost, Mr. Laing, and Mr. Scott; and I shall dismiss them all, with just referring you to a perusal of what is charged in the indictment upon that subject, and ask if you can hesitate one moment in saying, that every word that I have charged in the indictment, is distinctly and fully proved, beyond any possibility of doubt; when they were forced to retire from Blackfriars'-wynd, upon the evening of the 5th, they called out that they were to adjourn; they adjourned to another place; and it is proved by the Gazetteer, that that evening the Convention declared themselves permanent. The event of an illegal dispersion was one of those events which was a signal for the convention of emergency to take place, the meeting place of which the committee were to keep secret from all the world, that it might not be known; that a fire might be kindled in a place where the eye of the executive power could not see it, and might rise to such a height, that it would have been perhaps impossible to have extinguished it. Gentlemen, you find them the next evening, though out upon bail, again acting within the bounds of the city of Edinburgh. Here they yielded to the authority of the chief magistrate; but had they done what was oppressive, had they presumed to have dispersed a constitutional, peaceable meeting, they might have obtained redress. You find them again assembled the next evening, and Skirving particularly, under a thin pretext which you will not receive, that the cockpit was his own private house: they were to meet, agreeable to advertisement, upon the 10th of December; the British Convention being now constrained to adjourn to the place appointed for the convention of emergency, the general committee of the Friends of the People were requested to meet at the house of Skirving, at the cockpit, at twelve o'clock at noon. Can you consider this meeting at that place, founded upon the restraint which they had met with, and this advertisement being signed by this very gentleman as secretary to them,—can you consider it as anything but a pettifogging pretence to shelter themselves under the wing of the law? Mr. Skirving was there, and Mr. Browne, persons who were the ringleaders, and active, not only upon Thursday the 5th, but upon the evening of Friday the 6th; and when called upon, before the magistrates, upon the Wednesday, to answer for this insolent advertisement, he pretends a wish to obey the law: he gets a copy of the prohibition of the magistrate; and, to conclude what I have to say with regard to him, what is his conduct? You find him reading a paper which my brother, who spoke early in the day, anticipated every thing I could say upon the subject, is as insidious, as seditious, and as inflammatory a paper as, under such circumstances, could possibly have been composed: he writes it in the morning before he goes to the place of meeting; and he says, "The magistrates of the city having forbid your legal and constitutional meeting, called this day by advertisement, and, by their proceedings to prevent it, having given occasion to a great concourse of people, which may issue in tumult, and hinder your deliberations, it is judged proper to adjourn the meeting." It was false when he wrote this paper, that any assemblage of people had taken place; whether it was likely to be so or not, he could not know the fact which did not exist; but this he coolly and composedly puts upon paper before he goes, and shews what was the object he sincerely wished should happen, that there might be a concourse of people and a tumult, that he might retire with precipitation from it, and leave, perhaps, a misguided and deluded mob to suffer for their folly, if a tumult did exist; or if there was any chance, that upon this occasion any riot was to take place, the tumult would be of a different nature, and a dangerous stop indeed, which would have directed its force, if it had not been checked by the arm of the magistrates, upon the heads of those who were the real objects of it. He says, "It is therefore proposed to you, to give place to the violence used against you. You will thereby convince the public, that you did not deserve such treatment; and now that

your delegates have a permanent existence,"—they had voted themselves permanent the week before, when it was carried, that they were to assemble under another name at the cockpit; this proves that the object was the same, that they were in a state of permanence which the Friends of the People had not come to, but which the British Convention undoubtedly had; and now that they "have a permanent existence, your several societies will be multiplied greatly, and means will be used to lay the business before each society individually, by printed bulletins." Still the same French expressions, from the moment that he appears upon the stage, till his last appearance which he makes upon it; and with which appearance I take my leave of him.

Before you, gentlemen, the only legal representatives of your country; and to whom, as such, your country look up, and who, I know, will support your proceedings; before you have I laid the conduct of this man, and from your hands I demand justice against him. I cannot conclude without reminding you of what it is, perhaps, indecent in me to suppose, that you can be intimidated, or that you can be overawed, or that you can be dissuaded from exercising that duty which you owe to yourselves and to your country, and following the dictates of your conscience, by the calumnious, false, and unjust aspersions of any man, or set of men. I know, and I trust, these will be treated by you with the same contempt with which I have treated all those attempts which have been made upon me; with that contempt with which I shall treat all that calumny to which I have been lately exposed; with that contempt with which I have treated even those anonymous threats of assassination, which I have received in the course of these two or three months, because I have dared to be vigilant and faithful in the execution of my duty; and I shall not cease in the course of that duty, in the situation which at present I hold, and which I hold to be a great and important one; I shall not be induced to recede from that kind of conduct, which I am determined to follow at all hazards, and in every event. I did hope that the example of two recent prosecutions might have had their effect, but which the conduct of this man proves, have been completely lost upon him. I shall, however, continue to discharge that duty; and every man who presumes to follow the conduct of these persons, not only those who are at present under charge, but those who may not take example from what, I trust, will be the result of the proceedings of this night, they may depend upon it, that the arm of the criminal executive justice of this country shall be directed to bring them to punishment. I shall bring them into this court, to this bar, before a jury of Scotchmen, and in their hands I shall leave them; and I know they will do justice. And I trust we shall all, as jurymen, as prosecutors, and as judges, meet with the applause, and with the support of every worthy, every good, and every virtuous citizen; and the abuse or threats of those of a different description, I shall account my highest honour, and consider as my best reward.

Mr. SKIRVING. — Gentlemen of the Jury, It gives me pain to think of detaining you, by going over the whole that I stated on the relevancy; but as you was not then in judgment, I think it my duty to state again generally what I then said, and to which I now call your judicial attention.

[Here Mr. Skirving proceeded to run over the substance of his pleading before the Lords of Justiciary, and having stated to the jury that it was impossible for a person not accustomed to speak in public, to follow out the Lord Advocate in so long and elaborate a speech, in which, however, he observed there was, he might say, nothing to criminate him personally, the most of it being occupied in vilifying the convention, and in filling up a blank leaf of some notes, said to be of the proceeding of the convention, and taken down by a number of persons: he went on to his defence, and took the liberty to read and speak alternately as follows:]

Though what I have stated already in pleading against the relevancy of the libel, must have convinced you of the injustice of charging any thing concerning that paper against me, after what had already taken place relative to it; yet, as the writing has been condemned by a jury, and the prosecutor seems still to lay much stress, in his endeavours to criminate me, upon my having received some copies of it, and upon my giving some of them away to a very few people; I must call your attention to the amount of the evidence produced on this point, although it must strike every person, on the first reflection, that if I had thought that writing calculated to any purpose which I had in view, instead of giving away the very few charged on me, I might have had them sent to all places where there were societies of the Friends of the People.

There appears no concert, on my part, in this business, nor previous knowledge of the nature of the writing, nor commendation of it. No evidence of my ever approving it; and so far from shewing an anxiety to distribute it, I had taken no means to spread it at all, nor ever considered it as a writing that could give offence, or, in the smallest degree, endanger the peace of the country. There is not a single thing more come out in trial, than what I acknowledged before the Sheriff, and from which I was assoilzied by him. The Fiscal, who, on no principle, could be a witness in this cause, did indeed swear that I was only dismissed to bring up the letter which I had acknowledged. But you see the Sheriff himself, with candour, acknowledges, and you see the Fiscal himself declaring the truth by his conduct at that time, though the prejudice of his heart has operated a different idea in his mind since that event. At that time he believed his first petition to be judged and rejected; for he first gave me a new summons, without a petition, and then presented a new petition *by the Lord Advocate's orders*, to have my papers searched, and myself incarcerated, though no new crime, nor additional circumstance to the former, was so much as alleged in it. "The above petition having been read in court, the Lord Advocate, as the petitioner has been informed, objected to it, and said, *that the proceedings against the prisoner had been all taken in consequence of directions given by him.*"

The Jury who condemned the Dundee address, informed of the alarming society of the Friends of the People, by the false and insidious calumnies of vile and venal newspapers, and magnifying the hideous picture, according to their distance, might naturally enough suppose, that, putting such a paper into the hand of such men, was giving arms to the enemy, or a dagger to madmen; but it could never enter my thoughts that such a paper would ever excite the Friends of the People to riot, or tumult. I knew them too well to apprehend the smallest danger from their reading of it; the facts set forth in the paper were already known to them. And if this paper fell into the hands of others, it could only have excited them to join the Friends of the People, which to do, is synonymous to a declaration, to avoid all riot and tumult; and, instead thereof, would have been subjecting themselves to good order, and to wholesome regulations.

The public prosecutor must have been very ignorant of me, if he thought my reading was so contracted, as that I should be startled at such a paper. I have read many, much more strongly expressed; and even the worst of them did not come up to my idea of sedition, which is *leasing making*; and, let me observe, that seeing this quality was admitted as essential to make up the crime of sedition, at the time of making these statutes, and these were the times of arbitrary government in this country, could I ever suppose, that at the end of the eighteenth century telling the truth would be found sedition? And if the authors, who have wrote the same things, have not told us the truth, in the passages which I will now read to you, from whom are we to get the truth? And who are we to believe?

I have already read some passages, and will afterwards read some more.

If then, I, who knew these things, could not believe the Dundee paper to be false and calumnious, how, then, can I be chargeable with sedition, for only receiving it, and letting a few friends, who were all on the most intimate footing with me, get copies of it, when desired? Besides, it is to be observed, that, as they were sent to a society whose secretary I was at that time, I might have given them all without fault, though it had been a criminal paper, because I might have given them without looking at them, so as to judge of their merit.

It is not proved, though asserted in the libel, that I gave a single copy to any, but to those to whom it was sent, and only to them, when they called for it.

No more is proven. And can doing this admit the suspicion of seditious and felonious intention? Surely no person hearing me can believe it. I ask you again, has the public prosecutor proven a single thing more than what I acknowledged before the Sheriff, except giving one copy to Mr. Kid, and one to Mr. Aitcheson, of both which, however, the Sheriff likewise knew, and yet judicially assoilzied me?

The Prosecutor is not more successful in his proof, relative to the 2d hand-bill charged in the indictment. He has neither proved that I wrote it, nor that I signed it, nor approved of it, nor published it, nor even that it is the address by the society, to which I am secretary; nor that I was secretary to that society in particular. Nevertheless, as he will not give up his charge against me in this particular; and, as some may suppose, that I must have been concerned in it; and yet I trust, that none of my judges will pro-

ceed in judging me upon any thing, except what it fairly charged upon me in the indictment, and also fully proved; I will beg leave to put that natural interpretation on the address, which unprejudiced investigation must be inclined to put. Supposing that a society of the Friends of the People, for I can only suppose it, as the Prosecutor has by no means proved it, had drawn up this address to the public, yet some of the witnesses said, that the meeting referred to, refused to pass these resolutions. As all of them were very sincere, and conscientious, and of course zealous in the cause of reform, as being that alone which, in their humble estimation, can save the country; can it be supposed by any thinking man, that on such a subject, they could possibly express themselves more softly? They believe sincerely that they have been, as by piecemeal, deprived of all the rights which, they have been instructed, their fathers had purchased by their blood—as was offered to be proved in the House of Commons, by Mr. Wharton, as you have seen by his motion made there, and not contradicted, and which I have already read to you. In what other terms can you suppose that they, as free-born Britons, would apply to those who kept them up, than in the language of DEMAND and of restitution? If they have not been robbed of their rights, they are made to believe so by those who should know best; the members of that very house, which, it is said, have sold them. Fully persuaded, and high in the idea, that they had at length fallen on the only plan by which they could recover their lost rights, and in which they thought their fellow-citizens were blind in opposing them, because their opposition to the measures, which they judged effectual, hurried the ministry into a destructive war, which they dreaded would end, as is now evident, in anarchy and ruin,—in what more moderate terms, then, could they reproach them for their folly, in being the evident cause of reducing their country to so great calamity and danger?

After all,—for I must take every advantage of the prosecutor, because he has discovered an unjustifiable keenness to criminate me,—you will immediately be convinced, that all he has said, and all the evidence he has brought, is quite foreign to the object before you. It cannot any way be applied to the address in the indictment. The hand-bill is described, in the indictment, to be a hand-bill, in consequence of which, a society, termed first "The General Convention; and which did afterwards arrogate to itself the name of "The British Convention," did assemble. But all the witnesses have declared, that the hand-bill, on which they bore testimony, was that advertisement, whose object alone was to call the several meetings of the Friends of the People, in Edinburgh, to meet in their respective bodies. It called no meeting of any other description, as you will see by the part of the bill, which the Lord Advocate has industriously kept out of sight, and which parts omitted, are as follows:

"*Friends of the People, Mason Lodge, Blackfriars'-wynd, 4th October*, 1793.

"Conscious of the purity of their motives and the legality of all their proceedings, which have been solely confined to that great object of national justice, a Parliamentary Reform; the Friends of the People have heard, with mingled astonishment and contempt, the *false* and *injurious* aspersions bestowed upon them, in the course of Mr. Muir's trial.

"In their own vindication, and to shew the world, that neither the imbecile ridicule of a crown lawyer, nor the unconstitutional opinions of a judge, can make them desert the great and important cause in which they are embarked; a numerous and respectable meeting of the Friends of the People, in and about Edinburgh, holden as above, have unanimously agreed to the following resolutions:

"I. That this society is determined to adhere to the original principles of its institution—'An equal representation of the People, and a shorter duration of parliamentary delegation.'

"II. That, without reflecting on a verdict of the country, the meeting consider it their duty, to return thanks, in this public manner, to Thomas Muir, younger of Huntershill, for his manly and honourable exertions in the cause of a Parliamentary Reform.

"III. That this meeting likewise consider it a duty to express their thanks to the Rev. T. F. Palmer, for his exertions in the same important cause.

"IV. That this society calls upon the people of Scotland to unite in promoting the happiness and prosperity of their country, by assisting to obtain a Reform in the Commons House of Parliament, the only measure that can secure to them and to their posterity, the inestimable blessings of peace; check an increasing and oppressive system of taxation, and prevent the baneful influence of that corruption which has proved so inimical to public

virtue, and so destructive to private morals."

Then comes the part of this hand-bill, narrated in this indictment:—

"*Friends of the People.*—The General Committee call on you to meet in your respective societies, at the times and places directed below, for the purpose of admitting those who now incline to join your several societies, and thereafter to take the proper measures previous to the General Convention, which will be then submitted to your consideration.

"Wednesday, Oct. 9.—The Calton and Laurieston societies will meet at their usual places, precisely at 8 o'clock.

"Thursday, Oct. 10.—The Cowgate society will meet at the same hour, in the Mason Lodge, foot of Blackfriars'-wynd," &c. &c.

As I know of no other meeting, except those nominated in the said hand-bill itself, which did meet in consequence of the hand-bill, the general meeting, as is stated in the indictment, "assembled in consequence of it," must have been one of Reeves' associations; and which might, with great propriety, be termed an illegal association, for all that is known to the panuel, for he was never connected with any of them; and has no knowledge of any such illegal association.

But, it is actually proved, by the confession of the person who was the author of the indicted part of said hand-bill, and by the evidence of his own brother, that the parts of that publication complained of, namely, the first half of it, is not my composition, but his own, and can any person suspect me to be the composer of the remaining half of the bill, when they see that it contains an address of thanks to myself; if ever the same was at all ordered?

I have shewn that there is nothing in the first part criminal, and what in the last part is wrong? Who does not see, that after the French have conquered all Europe, they must also conquer Britain? And if this country associators were sincere, they are now certainly called upon to risk their lives and fortunes, that is to say, they are called to oppose this formidable enemy, who may take both life and fortune from all those who have pledged their lives and fortunes to oppose them, if they shall find them making good their promise, by still urging and aiding the very ruining attempt, to subjugate that people.

The public prosecutor and some of the lords of justiciary have grievously twisted the *N. B.* at the end; which, however, if considered in the plain and obvious light in which it appears to every eye, not jaundiced with prejudice, cannot be construed to mean more than a peremptory call, to make good their share of the public obligations of the society in the present deficient state of their finances.

I have already said, that the general meeting, defined in the indictment, is not any meeting called by this hand-bill. That, at any rate, I am no way connected with any such general meeting, as the one so charged with sedition, and said to have met in consequence of said hand-bill. The British Convention, whose secretary I am, is that well known society and meeting, which was a prorogued meeting of the Convention of the Friends of the People, that met on the 30th of April last, and adjourned till October ensuing; and then assembled in consequence of said adjournment, and of the following public advertisement; and not in consequence of any other advertisement whatever.

"*Friends of the People, and of Parliamentary Reform.*

"The General Convention, at the last meeting in May,—unanimously resolved, to persevere in the cause of Reform which they had espoused; and therefore adjourned to Tuesday the 29th of October next, when they would again assemble in the city of Edinburgh, in such a place as the Friends of the People there should provide for the meeting.

"The several Societies are now therefore called on, to meet in their towns with all convenient speed, for the purpose of electing and instructing their Delegates to the ensuing general meeting.

"Societies lately formed, and those who have not been yet affiliated with the General Association, and such as may now be formed, in consequence of this intimation, will not fail to send with their Delegates, an attested declaration of their adherence to the principles, and the object of the Association.

"Another application for redress of grievances,—the kind of Reform sought, and for the not specifying of which, in the last Petition to the House of Commons, it was rejected,—the mode of this application,—the vindication of the association against the public charges of sedition, and malignant design, &c. are subjects which will require the most deliberate discussion. The Delegates will therefore come up to this meeting, as to the duration of the sitting.

"Meetings, and incorporations of every denomination, already established for necessary, or benevolent purposes, in whatever part of the kingdom, and who may not conveniently change their *firm*, but who are well disposed to unite their efforts for a speedy Reform, *as being that which alone can put a period to the calamities of the nation*, will be received as brethren in the persons of their Delegates,—*for the Friends of the People seek not their own reputation, but the universal good of all.*

"The Association, in Edinburgh, will advertise the place of meeting in due time.

"W. SKIRVING, Sec."

This is the meeting which I acknowledge, and which I will defend if called on.

The minutes produced, may be the minutes of any other meeting. It is not proven that they are the minutes of the true British Convention, with which I am concerned, and for which I will ever be ready to answer. Not one witness has declared that they are so; and I have never been called on to instruct how these papers came into my hand. They are evidently the notes and writings of many persons. It is not proven that any of them are my writing, and though this had been proved, it has been at the same time proved, that they could not be the minutes of the British Convention; because the British Convention appointed a committee to draw out their minutes, and it is not even hinted, that these are the minutes drawn up by this committee. And how can they possibly be the minutes of the Convention which appointed them?

The British Convention of delegates is a justifiable and justified association. It met under the sanction, and after the example of the convention of delegates from the Burghs, and of the convention of delegates from the counties of Scotland, and both of these countenanced by the first characters in the kingdom. It had the same legal authority for assembling as either of these. When a few of the pensioned, and to be pensioned, members of these in this country, wanted to call in question the propriety of their own conduct, with a view to put a stop to our pensionless associations of the people, they were pleased to report the following, and transmit the same to the other counties:

"*Report 11th.* In addition to this report on the merits of the two bills, the committee submit, that they entertain great doubts of the propriety of sending delegates to the meeting appointed for the 30th of May next. In the present situation of this country, they wish not to give their sanction to general Conventions for the purposes of reform: they do not see any good that can arise from it, for the business can be more fully and better investigated in each county, where freeholders and commissioners of supply form a legally constituted meeting; but they have no powers by law to send delegates to any Convention. The only legally delegated body is the House of Commons; and each county can give instructions to its representative, by which mode the general wish of the country may be obtained in a constitutional manner."

"JOHN INGLIS, Preses."

This attempt of the committee of the county of Edinburgh, evidently intended to pave the way for a quietism bill, received the following answer from a number of the principal members of both these Conventions:

"*Answer 11th.* The opinion of a meeting thus constituted, will not, it is hoped, have much weight in the meetings of the 30th of April, or with the commissioners of supply, and the great body of heritors, entitled to attend these meetings, it was the declared intention of the last meeting of county delegates *to restore the right of representation, to all men who stood deprived of it by the act passed immediately preceding the Revolution*, and by the different explanations given to it in the present century.

"It is curious that the committee of Edinburgh Freeholders, most of whom were delegates, and voted for the re-election of delegates this year, should have made such a proficiency in the study of law, during the course of a month or two, as to discover the illegality of meetings of this kind, and that they should venture to state their opinion against that of the Lord Chief Baron of the Court of Exchequer, who presided in the last meeting, and of the Lord Advocate, upon whose motion it was unanimously resolved, to recommend a new meeting of delegates this year, without either the Dean of Faculty, or any other of the eminent lawyers, or any of the country gentlemen, having once suggested a doubt concerning the legality or propriety of the measure.

"We entreat the committee of the county of Edinburgh, to recollect that every meeting is lawful upon the very principles established at the revolution, which they have so solemnly bound themselves to stand by.

"The futility of the argument, that each county may, without communication

with others, instruct its members on the mode of amending a law, which is general over the whole country, must be apparent to every one. Were this attempted, we may be sure no amendment whatever would take place, for it is next to impossible that any two counties should, without communication, agree on the same mode of amendment. Hence it must appear that the consequence of the committee of Edinburgh's resolution, is to allow those abuses to remain in the law, which (*to use their own words*) have rendered it impossible for courts of law to follow uniform and consistent decisions.

"ROBERT GRAHAM, Preses."

It is evident then, that in being a member of the British Convention of Delegates from the societies throughout Britain, I am no more chargeable with guilt, than his Lordship the Prosecutor himself, or these other great names who patronised the burgh and county conventions. And the British Convention is also equally justifiable, and must be held so, until legally condemned. One of the Prosecutors, comparing this regular and well-known meeting, or society, to a mob collected for mischief, maintained, that any one of the number might be taken up and punished; but he by no means instructed, that either by the law, or the practice of this court, any man was ever punished for being present at a mob, if it was not also proved, that he had an active hand in effecting the mischief that was done by that mob.

If the British Convention is to be esteemed by you a mob, you cannot find me guilty of any thing, but of those things only which the Prosecutor has proven, was my own individual act. If the Prosecutor had charged me, as the secretary to the British Convention, and therefore answerable, in law, for their proceedings, I should have met him boldly in that capacity, and challenged him to criminate any part of their conduct; I should have been prepared to answer every thing his ingenuity could have suggested against those deserving patriots. I should have justified them fully. In this case, I would have stated candidly, the object and design of that body; their proceedings down to the time of the violent attack made on them; and submitted the whole to a fair and open trial. But to try me, individually, upon parts and portions of proceedings, of a seditious number of people, as the indictment states them to be, and which were called in a very different manner from the British Convention, which was summoned by an avowed advertisement of mine, put into the newspapers by their authority, as I have already stated, and which was of a very different nature from that one narrated in the indictment, is certainly the most extraordinary and unprecedented attack; and which, I am sure, the Prosecutor could never have made, if he had not known, that every person, and every thing would be at his back like his faithful minion, whose mistake has been shewn before his face in the court.

If the British Convention, consisting of delegates from the various societies of the Friends of the People throughout Britain, is justified by the example set them by the whole nation, and which example, I have shewn you, was vindicated and justified by some of the first characters in the kingdom, and cannot be condemned; surely neither can you condemn the business for which these delegates were sent up, namely, to take the proper measures for a substantial parliamentary reform. Can any man have a doubt of the necessity, the immediate and absolute necessity, of such a reform? I will not suffer a doubt to remain about this necessity in the breast of any one who hears me; I will read a few paragraphs from the publications of those who should know, who must know, that such necessity exists, and if we may not believe them, whom shall we believe? I will first read you from the Earl of Buchan's political essays, lately published, the opinion of men in the higher spheres of life.

"A rich and powerful nobility (*alias* an oligarchy) must soon destroy the liberties of any people among whom they are suffered to domineer.

"It is in vain to search for the moral and rational principles of government in the military Gothic age: in those wretched times men had no civic union, no proper interchange of political sentiment. Fixed, or rather chained as they were to the soil of their masters, the people were without collision of sentiment; had no organised societies for the contemplation of common interests; no high roads, no posts, no printing presses! What is man in such a situation, but the machine of regal or princely ambition and luxury!

"The struggles for liberty in Greece and Italy, recorded so eloquently by the Greek and Roman classics, imbued the minds of youth, and excited the feelings of the aged, with the ardour of political sentiment. The people then began to know truly what it is to be a member of

a free commonwealth, to be a citizen: delightful name! best of inheritances, best of rights, not to be surrendered, but with the life that accompanies it! With these sublime and heart-engaging affections, the study of the Scriptures of Moses and the Evangelists in the living languages of Europe, and the consolation of free-agency in the choice of religious opinions, remarkably contributed to the creation of new political energy among all ranks of men, but particularly among the middling and lower classes of the people, who by religious controversy were made, as it were, artificial members of society, and felt the inexpressible and captivating delight of thinking and acting for themselves, and of touching and affecting general society. The clergy, irritated to madness by the dissolution of their magic superstition, and looking forward to the total destruction of their profitable fable of the church, persecuted the thinking and reforming people; and this laid the foundation of that perception of religious liberty, which immediately connected itself with political liberty in Scotland so early as the reign of James V.

"To women, some how or other, we have been indebted from the beginning for fortunate revolutions.

"To the beauty, gaiety, and imprudence of Mary Stuart, the daughter of James V. we are indebted for the present state of Britain, such as it is. Had Mary been prudent, Scotland might have become a popish monarchy. England at best would have been under its old monarchy (with proper address, under the Stuarts); and we should not have had occasion to deprecate Gallic freedom with the monstrous insanity of modern Englishmen; but to deplore the want of it.

"I stop rather to inquire concerning the comparative state of Britain, in this philosophical age of political sentiment, with France and other countries, that have had inferior advantages.

"Who but a clerk of the treasury, or a lord of the king's bed-chamber, can contemplate this parallel without regret?

"It was in the last war of George II. that Great Britain laid herself under the necessity of defending her wide-extended dominion; and of asserting her claim to be the first nation upon earth. The contest was bloody and expensive, but the end was glorious—the enemy prostrate and breathless, empire extended, honour maintained, peace established, and, like the sun rising after a storm, a young and native monarch holding the sceptre, and ascending the throne, amidst the acclamations of the freest and happiest people on the globe.

"These acclamations are heard no more. A system of corruption, established and digested early in this reign *by a baneful aristocracy*, has prevaded every rank and order of men, till the spirit of the constitution has fled and left only the *caput mortuum* behind. The forms of our government have out-lasted the ends for which they were instituted, and have become a mere mockery of the people, for whose benefit they should operate.

"The prophecy of Montesquieu is fulfilled; and nothing can save the country but the fulfilment of the prophecy of Franklin. What that prophecy was, what this prophecy is, I leave to the curious to learn. What I have written, I have written: futurity will determine the truth of my own particular predictions, and whether I am to be remembered as a captious Cynic, or a wise and Pythonic politician.

"To conclude: as I think it unnecessary to delineate the spirit of the times in Europe with respect to government, so I think it to be indispensably required at my hands, that I should, with respect to Scotland, deprecate the refusal of a militia to my country, the necessity for which was so eloquently set forth by my favourite Fletcher.

"That I should mark with my blackest coal the game license act, which is an insidious and dangerous disarming of the commons.

"That I should express my utmost detestation and abhorrence of the conduct of a first minister, who calling himself the minister of the crown, with a treasonable audacity should dare to advise the dissolution of a parliament, against the sense of a house of commons, the only legal organ of the voice of the people, let that house be ever so ill constructed, and demand ever so much reformation.

"That I should loudly protest, that a parliament ought to be allowed to die a natural death. And,

"That if a parliament, contemplating the foreboding, the ominous imperfections of the constitution, should on its death-bed provide for a remedy by the equalization of the representation of the people, it would prevent the dangerous concussion which must undoubtedly arise, and that quickly, from their political franchises being brought to the level of surrounding nations with a violent jerk. Let us not (said my admirable preceptor and friend,

Adam Smith, author of the Essay on the Wealth of Nations,) rashly believe that Great Britain is capable of supporting any burden.

"Let us consider what hold we have *now* of the two Indies, of Canada, and our other lucrative dependencies. A blow may be struck, a blow will be struck, that shall reach the vitals of public credit, and it is an event which nothing but political insanity can induce public ministers not to provide against. But no provision can be made against this event, except that which has been pointed out by the finger of the genius of Britain's welfare.

"I will not offer incense to the living, but to the dead: I inscribe this and the following sheets to the memory of Sir George Saville, of Rufford Hall, member of parliament for the county of York.

"In Scotland the rights and liberties of the people had been determined, and fixed by multiplied instances of changing the order of succession, and attainting their soverigns for treason against the rights of the people: and it is to Scotland and a Scotchman that the world is indebted for the establishment of the philosophical and logical principles of a free constitution both in theory and practice. George Buchanan, the greatest man of his age, as well as country, established, *by irrefragable arguments*, in his treatise or dialogue concerning the rights of the people of Scotland, the rights of all mankind; was the father of whiggery, and, what is much grander, the father of that system which will one day verify the prophecies of the Christian Scriptures, to the abasement of kings, and the destruction of priestcraft.

"The same sentiments," he goes on to add, "kept up the sacred fire of freedom in France, in the midst of folly and despotism, till the progress of commerce, printing, philosophy and literature, opened the eyes of Frenchmen every where to discover that they were men, and ought to be citizens; that men were not born with gold chains about their necks, with stars upon their breasts, or coronets upon their heads: that it is the nature of kings, as hitherto constituted, to consider their interests as separate from the interests of their nations, and to watch continually like wolves or foxes for their prey, in order to destroy the citizens committed to their charge. That it is necessary, therefore, that they should have only the power of obeying the laws made by the people, with that of doing good; but that the power of doing mischief, either by prerogative or *influence*, ought to be taken away. These were the principles of Fletcher—principles that seemed extravagant, disloyal, and impracticable, in his days, but which are now acknowledged almost every where, except in Spain, Germany, and England.

"From this busy period, till the meeting of the union parliament, Fletcher was uniform, and indefatigable in his parliamentary conduct, continually attentive to the rights of the people, and jealous, as every friend of his country ought to be, of their invasion by the king and his ministers; for it is as much of the nature of kings and ministers to invade and destroy the rights of the people, as it is of foxes and weasels to rifle a poultry yard, and destroy the poultry. All of them therefore ought to be muzzled."

I will next shew you the public opinion, as narrated by Arthur Young, in his 18th and 19th volumes of the Annals of Agriculture, and surely none will suspect Arthur Young of prejudice against the present Government. The passages which I shall read you out of this book, are queries proposed to the public consideration, by Mr. Lofft, a member of the British Senate, together with the answers to the same.

"*Queries by Capel Lofft, Esq. of Forston.*

"DEAR SIR,—You have often, and with success, invited discussions in the Annals, on subjects immediately or consequentially affecting Agriculture. Will you approve the wish of proposing the following queries?

"1. What number of Agriculturists, in the several counties of this island, may be computed to be without a vote in the choice of representatives?

"2. What effect may this deficiency of representation be reasonably regarded as having, relative to agricultural interests?

"3. What influence, in this respect, ought to be ascribed to the septennial duration of parliaments?

"4. Are the interests of agriculture, at present, understood and regarded in parliament in proportion to their national importance?

"5. Is it probable that a reform in the election and duration of parliaments, or either, would cause them to be regarded?

"6. What reform in the representation would be most conducive to this effect?

"7. What mode and circumstances of election?

"8. What duration of parliaments?

"9. Is this a fit season for such reform?

"Those who are directly engaged in

Agriculture, either as *owners*, occupiers, or *husbandmen*, form so great a part of the nation, that a view of the subject, as it respects them, will give a very general insight into its principles and tendency.

"I am persuaded you will not concur with some, who think this question cannot be discussed without disordering the peace of the nation, and endangering the existence of the constitution: on the contrary, I am certain there are those very friendly to both, who look to such an inquiry as the very means of preventing violent and precipitate measures, promoting confidence and tranquillity, and preserving the constitution."

Annals in Agriculture by Arthur Young.
"Replies to Mr. Lofft's Queries.

"Frickley, near Doncaster, September 8, 1792.

"SIR,—Before any attempt to answer Mr. Lofft's very pertinent queries, it will be necessary to premise, that whatever apparent weight, by representation, the agriculturists, or any of the lower orders of the state, may have in the legislature, is so utterly absorbed, and rendered void by the superior influence of the crown and peerage, in the House of Commons, that a calculation, even of the number of agriculturists, who actually have votes, must, by no means, be considered as a *datum* for an estimate of their real consequence in that house. While the crown and peerage act in concert, the government of this country is virtually an aristocracy; and I fear it is approaching fast to the situation predicted of it by the celebrated Montesquieu, 'Il perira lorsque la puissance legiatative sere plus corromque que l'executrice.'—Esprit des Loix, tom. i. p. 324. The lower orders, of course, lie at the mercy of the government, until the middle class of citizens shall assert its consequence, and obtain its natural level in the constitution; a circumstance as desirable and essential to the general interests of the nation at large, as it is the real and durable interests of the crown and peerage in particular. By the middle class of citizens, I mean those men possessed of property, from the smallest portion, to a moderate degree of affluence; and this class may be defined, as ending where the real *utility* and *elegance* of life give place to its fastidious pleasures, magnificence, and pageantry; which last are only within the reach of such as are aptly called overgrown fortunes. This middle class includes all the inferior gentry, the yeomanry, and farmers, with nearly the whole of the manufacturing and commercial men in the kingdom. This class, then, constitutes the body of the state, in the aggregate of its numbers and property; and if the crown and aristocracy, or head of the state, will obstinately persist in refusing to legislate, in union with the body, where will be the barrier of their defence, from the lowest members, in any extremity of danger and public convulsion, which the history of mankind, in all ages and nations teaches us, are almost periodically to be expected, as the blazing eccentric comets of the political hemisphere? What an awful warning our neighbour France presents to the towering pride of the great men in the earth: the monarchy and nobility of that kingdom, the most powerful and numerous in the world, could not resist the shock of contending political elements, but have now fallen victims to the want of union and concord with the middle class, or body of the state."

"Replies to Mr. Lofft's Queries.

"1. I think there are, at least, one million of agriculturists in this island (including labourers, to whom, I presume, the query extends,) without a vote in the choice of representatives: these, with their families, amount to more than five millions of souls, or above the one-half of the whole population of the country.

"2. This deficiency of representation has certainly the effect of diminishing the consequence of that which, in common sense and policy, ought to be the first concern in the state; it follows, then, that the real interests of the agriculture of the kingdom are very little regarded or known in the House of Commons.

"3. As the House of Commons is now constituted, it matters not to the agriculturists of this nation, whether the duration of parliaments be septennial or *septuagesimal*; perhaps it would be better if there were none at all.

"4. The interests of agriculture are certainly not at all understood and regarded in parliament: witness the duration of tithes, the influence they and the manorial claims have in preventing the inclosures of commons, now utterly useless to the community, also the enormous expense and trouble of applications to parliament for that purpose: in addition to these discouragements, sufficient of themselves to proscribe and destroy the plough as if it were an implement of no use or value, has not an act been recently passed, by which the American farmer, with very trifling rents and taxes, and tithe free, is allowed a competition with the British farmer in his own

markets, though he is crippled, as above stated? Yet the British farmer is no advocate for a monopoly, and is ready to allow, that the people of England have a good right to be supplied with corn at a moderate price; to take off his shackles, and the British farmer will have the advantage in competition with any farmer upon earth, with a free corn trade. Perhaps the best answer to this query may be given by stating these plain facts:—An annual import of foreign grain to a vast amount; ten millions of acres of uncultivated land, waiting only for the *fiat* of the legislature, to enable Ceres, with her golden harvests, to triumph over the chaotic reign of heath, and whins, and mutton-bones. If the senators of Great Britain did not love *racing* and *fox-hunting* better than the *plough*, could these things exist? I am here reminded of our good editor's remarks on the poor peasants of Laincourt, who were actually enclosing and cultivating the duke's wastes for their own use.—[*See his Travels in France, p.* 266.]

"5. It is very probable, that a prudent reform in the election and duration of parliaments would secure to the interests of agriculture their proper attention.

"6. Let the House of Commons consist of five hundred representatives for the *counties* of this island, the number for each county to be proportioned to its extent and population.

"7. Let every parish, or small district in the county, send a deputy-resident in such parish or small district to the county town, the deputy to be chosen by *ballot*, in a meeting of the men of the parish or district, above the age of twenty-one years. No person to declare himself a candidate for this office, or to canvass, bribe, or otherwise endeavour to obtain votes, on pain of imprisonment and confiscation of effects. The deputies of the parishes or districts, thus elected, to assemble as soon as possible after their election at the county town, to proceed to the election of the representatives for their county in parliament. Let the deputies, when assembled, choose a president, the president immediately nominating, with consent of the assembly, a committee of six deputies, who, after such nomination, shall, *out* of the place of assembly, make out a list of such of the said deputies of parishes, or districts, as they deem most proper to represent the county in parliament,—the president to read over the list to the assembly; after which, each person on the list shall be severally voted for by *ballot*. On all occasions of equality of number, &c. &c.

"8. The duration of parliaments to be triennial.

"9. All seasons are fit for reform, and the present is particularly so: a wise man, in prosperity, will ever endeavour to secure himself against the return of adversity, in the best manner he is able; and will not, by a dangerous security, delay a salutary design.

"It gives me pleasure to see that the editor of the Annals of Agriculture is not alarmed with the idea of introducing that terrible word, *reform*, the bugbear of weak and wicked minds. How intolerable it must be to the spirit of a free and independent Englishman, to hear the quondam reformers of parliament, men now possessed of high offices and emoluments, make specious orations against reform. Such men, being parties in the case, and reaping to themselves the foul harvest of abuses, ought not, in common decency, to say one word; at least, what they say ought no more to be attended to, by independent men, than as the speeches of those who they know are intending to *deceive* them for their own profit: but the frequency of this circumstance must induce honest men to fear dangerous revolutions, far more than to hope for salutary reforms; for I believe the present masters of this country cannot even yet define Englishman, as the tyrant of Rome once did the degenerate Romans, *homines ad servitudinem pavati.* Though, I confess, the servile echoes to the late proclamation, apparently give the ministry some grounds for the assumption of it as a principle, that we are a people ready for slavery, and to be managed as such; yet the ministry ought to know, that corporations are not towns, and that the great body of the people are not in habits of corrupt and corrupting obligation to the numerous host of their creatures."

After such information, was the public not to be alarmed? and if things really are in such a state—if our constitution is really thus on the verge of destruction,—ought not the public to be roused, by every means, to prevent its total annihilation? Convinced of this, could wise and prudent men withhold from stepping forth to prevent the evils to be expected from such an event, if, as it is now apparent, the evil is unavoidable? and the more so, that the means which presented themselves as the most prudent for counteracting the calamities, if they should fall upon us, I mean the union of the people

in heart and mind, were the only means of averting these calamities themselves; because the only effectual means for restoring the constitution to its original principles by a substantial parliamentary reform.

Our opponents use the most strenuous exertions to misrepresent our designs and purposes; but have they proven that we have endeavoured to overturn the constitution? They have only given you assertions, and we are not bound to prove the contrary, nor need we. The contrary is apparent to every unprejudiced mind. It is because evils exist which tend to subvert the constitution, that we are associated to seek the removal of these evils, and to prevent their further progress in the undermining of the same; and it is proven to you, by the prosecutor's own witnesses, that when Thomas Elder, Esq. and Harry Davidson, &c. and the multitude with swords and staves attending them, for I cannot call them magistrates, not being able to recognise any legal authority under which they acted, when they violently broke up the meetings of our Convention. When they came the first night to disperse us, we were actually beginning to consult about the execution of a former resolution, viz. about applying, by petition, to the House of Commons, for that reform which alone seemed to us adequate for the removal of those evils by which we apprehended our constitution endangered. We were interrupted in this legal and constitutional business that we had that night. We assembled the next evening out of the town, thus giving way to violence, and proving our disposition to peace; and that, as much as was consistent with duty, we would avoid giving offence, in proceeding upon the same business of an application to parliament. The Lord Advocate has avoided the taking any notice of this circumstance, though, if these are the minutes of our Convention, they must contain, first, an unanimous resolution to apply to the House of Commons by petition; next, a resolution to take under consideration the means of executing that resolution; and, thirdly, a resolution to make this the subject of deliberation on that very evening on which we happened to be dispersed, expecting that the previous matters would, by that evening, be all settled.

The Solicitor-General and the Lord Advocate have exerted all their powers to impress you with the belief, that the Convention must have had a design to overturn our happy constitution. They said we were pursuing a thing inconsistent with the constitution, and which never came into the minds of those who framed the constitution. That we were seeking it on the plan of the French Convention, and that they must be right in the apprehension which they have formed, since we were at so great pains to keep our doings a secret.

As to the first of these averments, no person in the least acquainted with the history of Britain, can deny the former existence of annual parliaments; and he must also acknowledge, that universal suffrage is the very principle of the constitution of the British House of Commons. But the fact is this,—the British constitution is neither more nor less, than the independent spirit of the nation, always disposed to trust too much to their rulers! but finding them, at any time, to have abused this confidence, always chastising them, and restricting their power where they found it dangerous, and increase the control of their own will, as the circumstance of the case required.

Much clamour has been made against the manner of our proceeding. The Lord Advocate sees distinctly the Revolution of France in every step. Circumstances the most trivial and accidental, arising from the wit and humour of a very few individuals, and which the Convention never designed to open a thought on, seems to have given the greatest alarm to those who, misled by calumny, had previously been made to believe that the Friends of the People were in concert with the French. And, considering such calumny, how could we treat it by more marked contempt, than by holding up such empty bugbears to the deluded, as nurses do to children to fright them to sleep?

The great burden of the third division of charges, and which have been magnified to the highest by his lordship, is the supposed motion of a convention of emergency, and the appointment of a secret committee; but concerning both of which, not a single thing is charged as if done by me. I need not, therefore, exhaust your patience to hear me further on the subject: I shall only crave your attention to the evidence itself of the witnesses produced by the Crown lawyers. To what does it amount, supposing these to be the true minutes of the proceedings of the Convention, though not its real minutes? It amounts to these things only; namely, that the Convention, dreading the introduction and passing of a quietism, or con-

venticle bill, which they cannot view in any other point of light but as the putting on of the grave-stone of the liberty of Britain, with the view of restoring; on a proper remonstrance against so grievous a measure, and of getting the same authenticated by the people's subscriptions before the bill could pass through the house, agreed to have an interim-meeting; and in order to avoid the tedious forms of calling such a meeting, prescribed by the standing rules of the Convention, namely, the procuring the consent of ten towns, having societies of the Friends of the People, for an interim-meeting of Convention, appointed the same to be called by a confidential committee, in a way which appears to them best calculated for a speedy assembling of the delegates. This confidential committee is named a secret committee; and what is the difference between the two terms, unless it be that the one is shorter? Is there any thing seditious in this? Is it sedition to complain and remonstrate against what we judge of the most dangerous tendency to the constitution? If not, what was there to be apprehended from calling a meeting to petition and remonstrate against it, in the way that seemed to the Convention most adequate to the doing of this timeously.

The *bringing foreigners into the country*, has ever been considered as the most dangerous to the liberties of this country. It has already been experienced in a way never to be forgotten; and the minister that would attempt it, would be a traitor to his country. I could not conceive a stronger reason for the people assembling to remonstrate; and I trust that, in the present crisis, the measure must appear, to every unprejudiced person, as the most dangerous that ever could be adopted, both against the liberties and peace of the country. And I trust that you, gentlemen of the jury, must approve of the honest patriotism of the British Convention, in providing for a due remonstrance against this and every such attempt.

Gentlemen of the jury, After what I have already instructed relative to that part of the indictment which charges me with contempt of authority, and resisting the sheriff and magistrates of Edinburgh, it does not appear to me as necessary to add any thing. It is evidently proven, as I then observed, that the provost and magistrates, the proper judges of such an offence, had already taken cognisance of the whole of that matter, and had also assoilzied me; and therefore the Lord Advocate had no right whatever to institute a new suit in this case, any more than in the affair of the Dundee address.

I shall, therefore, now only request your serious attention to a few paragraphs respecting your own duty, which I shall read you from a very sensible book, though the same must already be well known to you; and then address you upon the whole in a few words.

"As juries have ever been vested with such power by law, so to exclude them from, or disseise them of the same, were utterly to defeat the end of their institution. For then, if a person should be indicted for doing any common, innocent act, if it be but clothed and disguised in the indictment with the name of treason, or some other high crime, and proved, by witnesses, to have been done by him; the jury, though satisfied in conscience, that the fact is not any such offence as it is called, yet because (according to this fond opinion) they have no power to judge of law, and the fact charged is fully proved, they shall, at this rate, be bound to find him guilty: and being so found, the judge may pronounce sentence against him, for he finds him a convicted traitor, &c. by his peers; and thus, as a certain physician boasted, that he had killed one of his patients with the best method in the world, so here should we have an innocent man hanged, drawn, and quartered, and all according to law.

"Suppose, for instance, a man should be indicted, For that he, as a false traitor, not having the fear of God before his eyes, &c. did traitorously, presumptuously, against his allegiance, and with an intent to affront his Majesty's person and government, pass by such or such a royal statue, or effigies, with his hat on his head, to the great contempt of his Majesty and his authority, the evil example of others, against the peace, and his Majesty's crown and dignity. Being hereupon arraigned, and having pleaded not guilty, suppose that sufficient evidence should swear the matter of fact laid in the indictment, viz. that he did pass by the statue or picture with his hat on; now imagine yourself one of the jury that were sworn to try him, what would you do in the matter?

"Nothing can be clearer than the duty of jurymen as defined by Magna Charta: Wherever the statute law has not provided a specific punishment for any crime, it is the duty of the Jury to determine the extent of the punishment:—The practice of leaving that to the Court is a desertion of their duty, and repugnant to the principles of the Constitution.

"The words of Magna Charta are, that no Freeman shall be amerced for a small fault, but after the manner of his fault, and for a great fault after the greatness thereof; saving to him his contenement, and a merchant, saving to him his merchandise; and none of the said amerciaments shall be imposed, but by the oaths of honest and lawful men of the vicinage. —Thus our Forefathers not only prevented a judge from imposing the fine, but likewise tied up the hands of the jury from ruining a man by an excessive fine;—in all cases reserving to the criminal the means of a future livelihood.

"But on the other side, when the matter in issue, in itself, and taken as a naked proposition, is of such a nature, as no action, indictment, or information will lie for it singly; but it is worked up by speeial aggravations into matter of damage, or crime; (as that it was done to scandalize the government, to raise sedition, to affront authority, or the like, or with such or such an evil intent): if these aggravations, or some overt act to manifest such ill design, or intention, be not made out by evidence, then ought the jury to find the party not guilty. For example,

"If the jury shall honestly refuse to find the latter in cases where there is no direct proof of them, (viz. that such an act was done falsely, scandalously, maliciously, with an intent to raise sedition, defame the government, or the like,) their mouths are not to be stopt, nor their consciences satisfied with the court's telling them—You have nothing to do with that; it is only matter of form or matter of law; you are only to examine of fact, whether he spoke such words, wrote, or sold, such a book, or the like. For now, if they should ignorantly take this for an answer, and bring in the prisoner guilty, though they mean and intend the naked fact, or bare act only; yet the clerk recording it, demands a further confirmation, saying to them thus: 'Well then, you say A. B. is guilty of the trespass or misdemeanour, in manner and form, as he stands indicted; and so you say all?' To which the foreman answers for himself and his fellows: 'Yes.' Whereupon the verdict is drawn up—'The jurors do say upon their oaths that A. B. maliciously, in contempt of the king and government, with an intent to scandalize the administration of justice, and to bring the same into contempt, or to raise sedition, &c.' (as the words before were laid); spake such words, published such a book, or did such an act, against the peace of our lord the king, his crown and dignity.

"Thus a verdict, so called in law, *quasi veritatis*, because it ought to be the *voice*, or *saying*, of truth itself, may become composed in its material part of falsehood. Thus twelve men ignorantly drop into a perjury. And will not every conscientious man tremble to pawn his soul under the sacred, and dreadful solemnity of an oath, to attest, and justify a lie upon record to all posterity? besides the wrong done to the prisoner, who thereby perhaps comes to be hanged, (and so the jury *in foro conscientiæ* are certainly guilty of this murder;) or at least by fine, or imprisonment, undone, with all his family, whose just curses will fall heavy on such unjust jurymen, and all their posterity, that against their oaths, and duty, occasioned their causeless misery. And is all this, think you, nothing but a matter of formality?

"Much of the office of jurors, in order to their verdict, is Ministerial; as not withdrawing from their fellows after they are sworn; not receiving from either side evidence not given in court; not eating and drinking before their verdict; refusing to give a verdict, &c. wherein if they transgress, they may be fineable.

"To what end is the jury to be returned out of the vicinage (that is, the neighbourhood) whence the issue ariseth? to what end must hundreders be of the jury, whom the law supposeth to have nearer knowledge of the fact than those of the vicinage in general? to what end are they challenged so scrupulously to the array and poll? to what end must they have such a certain freehold, and be *probi, et legales, homines*, and not of affinity with the parties concerned, &c. if after all this, they implicitly must give a verdict by the dictates and authority of another man, under pain of fines and imprisonment, when sworn to do it according to the best of their own knowledge?"

Gentlemen of the Jury, Having submitted already some things that appeared to me to be altogether necessary for your consideration, and for my own exculpation, I shall now, in a very brief manner, state the heads of my defence. To these I would beg your particular attention, because, by bestowing this, you will be the better able to judge the cause. Remember you are called upon, this day, seriously to decide concerning the conduct and fate of one of your fellow-men, who has been accused of a crime of a very heinous nature, no less than that of attempt-

ing to break the peace of society, and of being engaged in practices hostile to the constitution of this realm. You already know what has been urged against me; and you will not discharge your duty to God and your country, you will not fulfil the sacred obligations which you have come under, if you do not hear and consider my defence, with an unbiassed mind, with a mind anxious to discover truth, and to render a just decision. But, gentlemen, I hope that you will not only judge my cause with that force of mind which resists prejudice; but, (in the confidence of my innocence, permit me to add,) I trust that you will shew that you possess that rectitude which places you superior to influence, that you possess that honesty and virtue of mind which would make you, undismayed, withhold your consent when the hand of power solicits your approbation.

I am charged with sedition; and, in support of this allegation, it has been attempted to be proved, that I have done such and such acts, or have spoken or written such and such words, as amount to the crime. My entire innocence of this crime of sedition, I most solemnly avow; and it is your business, then, when I deny the crime, to investigate whether and how the charge has been proved. My defence divides itself in two parts. You are to examine, in the first place, whether the evidence of different kinds that has been brought before you, is sufficient to prove the facts alleged, or to fix on me the writings, speeches, and acts, specified in your libel: and farther, being judges of law, as well as of fact, you are, in the second place, to determine whether these speeches, &c. even if they were proved to be mine, constitute in their author the crime of sedition.

First, With regard to the former of these points, the proof of the simple facts, I believe it is a maxim, not only altogether fair, but agreeable to the dictates of common sense, that when you are falsely accused of a foul crime, you may, and indeed, ought to employ every lawful expedient in your own defence. It is not, therefore, from any mean desertion of principles, it is not from any weak dread, that any part of my conduct about politics will not stand the strictest scrutiny, and may be tried by the severest rules, those rules which should ever regulate the conduct of every good man and good citizen. I say, it is not from the apprehension that any of my speeches, writings, or practices are criminal, that I call upon you to investigate the nature and amount of the evidence adduced in support of the several charges. Perhaps, some may think it was unnecessary to refuse, while I am conscious of my own integrity, that which I deem to be no crime; and may therefore judge it better that I should have admitted, that all such things have been done by me, as libelled, and should content myself with your opinion of their quality and import. This, however, I could not do, even supposing I had been inclined to it, for the purpose of saving you some trouble. While measures the most insidious, and, but for some harmless difference in political opinions, the most unprovoked upon my part, are employed to circumvent and destroy me, and ruin my family. I am fully warranted to deny, on the whole, a charge so unjust. I do not beg, then, gentlemen, that you would have the generosity, but I demand that you will do me the justice, to attend to every sentence of the libel; weigh the evidence brought in support of it; and deliberately judge how far the allegations are truly proved to be matters of fact, or to have taken place simply as stated. Besides, you are to try the cause, and to decide concerning the truth or falsehood of the charges from the evidence set before you, and in no other way; and this, gentlemen, you must know to be your bounden duty. With these general remarks, I leave you to determine as to the truth or falsehood of the alleged facts.

Secondly, I will now beg your attention to the second part of my defence, in which I affirm, that the import of all that has been alleged, or specified to have been said or done by me, even though it were completely proved, will not amount to the crime of sedition, or to any crime whatever. Under this second, which, in this case, is by far the most important branch of your duty, you will examine the facts, or matters charged in the indictment, in two points of view. Gentlemen, in the first place, you are to weigh the import of the facts charged themselves; and, in the second place, you are to consider with what intention they were done: for unless you can say, from the proof adduced, that the alleged speeches, and other matters libelled on, are of a seditious import, and besides, that they proceeded from a wicked and felonious intention in me, the accused person, you cannot find me guilty of the crime charged in the indictment. With respect to the former of these, I need not tell you, that, if the words and actions ascribed to me can be

found, on a fair interpretation, to import nothing wrong, there can evidently be no crime; for allowing that I had discovered the most perverted and wicked intention in the matter, yet, if all that I did was of no seditious import or tendency, weakness and folly could only incur contempt, and be treated with derision. Now, I have no doubt, that I shall be able to satisfy you, and all candid persons, that every thing that is alleged to have been done by me, amounts to nothing criminal—to nothing more than what any Briton, with the most entire regard to the constitution of his country, has a full and undoubted right to do. Read, I beseech you, and take a *connected* view of the whole writings, speeches, and proceedings referred to in the indictment, and you will then be able to judge of their import, much better than you can be from the partial extracts and mistaken details inserted in the libel. What can you discover there inconsistent with the principles of the British constitution, or subversive of the authority of the British government? Is there ought else to be found there, but a sincere wish, and an ardent, but honest attempt to procure that relief from errors, or remaining imperfections,—to effect those political improvements, to spread that information,—and to enjoy that friendly and mutual intercourse and advice of our fellow-citizens, that seem necessary to improve the situation of society in Great Britain,—to give its constitution purity and perfection, and to procure to the inhabitants of these realms greater security, satisfaction, and peace? Is it not the birth-right, the oldest and most invaluable privilege of every Briton, to possess the power of pointing out those errors, which he conceives to exist in the administration of government? If we discover wherein, according to our opinion, the happy constitution of this country, the constitution of the three estates of King, Lords, and Commons, may be improved;—if we suppose, with some reason, that the privileges of those, connected with one estate, may require to be extended and improved, and may readily be so, without, on the one hand, occasioning any detriment to the royal prerogative, or to the privileges of the members of the other estate, and without, on the other hand, introducing disorder and anarchy among the inhabitants at large;—if, in the pursuit of these important objects, we reckon it improper to rely wholly on our own opinion, and wish, therefore, to collect the sentiments of our fellow-subjects; and if we think it impertinent to trouble the legislative body, who alone are competent to remove the errors, grant the reform, and confer the improvements sought after, with our solitary and inept application, I say, when with these views we are actuated, is there any thing wrong in honestly declaring and avowing our sentiments and openly consulting with our fellow-citizens; and, especially when we do so in such a manner, as becomes the attentive and dutiful subjects of a regular government? Has not this, and even more than this, been done by the favourite minister of the day, and many of his adherents; they who now discover their hot zeal for the constitution, by watching, with such anxious concern and suspicion, the actions of others? But I need not insist, for it is known to every one what has been done, and what has been said by them. You know their sentiments were the same with ours. You know that the friends of reform in those less irritable times, met openly and without obstruction, and that their words and conduct, (not less expressive of their sentiments, than our words and actions are of ours at present,) if not approved of by every one as proper, were not denied by any one, to be consistent with the spirit of the constitution, and the liberty of discussion permitted by our laws. With such upright views, to meet with undue opposition, contumely, and even oppression from our fellow-subjects, who happen to differ from us in opinion, must surely be irksome, and calculated to exasperate. But we have hitherto behaved, and will always conduct ourselves with moderation and quietness. Though we have reason to believe, that the present opposition to our sentiments and conduct is too pointed and too personal, to arise wholly from a simple difference of opinion; and, though we may suspect that some oppose us, because they derive advantages from the corruptions which we desire to have removed, yet no bad treatment has ever yet seduced us from our principles, or provoked us to turbulence; and it has been our constant prayer to the God of Peace, that amidst the shakings of the nations, he would bless with unity and concord the inhabitants of these islands. As we conceived the civil magistrates to be rash, and to act unconstitutionally, in dispersing and forbidding our meetings, our astonishment, at what we deemed an unmerited insult, and our desire to assert our privileges, will sufficiently account for our wishing to continue our meetings.—No rudeness, however, was ever meant or

shewn by us, as the witnesses for the crown have attested; and another public meeting, if it could not be procured in Edinburgh, but at the risk of public order and tranquillity in the smallest degree, would neither have been desired nor attempted. You will see then, gentlemen, that there is nothing of a seditious or inflammatory tendency, to be inferred from our behaviour to the magistrates and sheriff, even though, in our opinion, they unwarrantably and forcibly deprived us of our acknowledged privileges.—Had we given place to the arm of power, directed as it then was, even more slowly than we did, it would have been no more but a trifling misdemeanor, by no means an approach to sedition. It could only be said, that our submission was shy, for resistance we made none.

The interpretation which has been attempted to be put upon some of the inscriptions quoted in the libel, by the Lord Advocate, is altogether forced and constrained. Nothing more was ever sought after by myself and the other Friends of the People, than the information of the country, and the acquisition of friends to reform, to be obtained in a manner consistent with the spirit of the constitution, and respectful to the legislature. If we wished for more, it was the steady adherence, and the amicable union of the friends of reform, and good concord and neighbourhood with every class of citizens, that we might give the necessary respectability to that cause, which we judged of prime advantage to the nation. Our solicitous perseverance in the pursuit of a constitutional reform can never, in fairness, be construed as an insult to the legislature of our country, far less can it be branded as an attempt to destroy its approved and happy constitution.

The palpable misconstruction attempted to be put on our conduct, I mean on the conduct of the general society or collection of the delegates of the Friends of the People, called, by way of distinction from the others, the British Convention, from certain words supposed to be similar to those used by the French having been accidently employed, is hardly deserving of notice. The use of such terms may vex a weak ear, or enrage a peevish mind; but it will neither disgust nor alarm a sound and happy patriot, nor any true friend to the British constitution. The employment of these words arising wholly from accident, or from the whim of one or two individuals, might be defended. As they are sufficiently logical, not uncommon in our language, and not disrespectful to any thing British; but they are too inconsiderable to require any further apology.

"TAKE NOTICE OF THE NATURE OF THE CRIME CHARGED, AND WHAT LAW THE PROSECUTION IS GROUNDED UPON, AND DISTINGUISH THE SUPPOSED CRIMINAL FACT, THOUGH YOU MAY THINK THE SAME PROVED, FROM THE AGGRAVATING CIRCUMSTANCES, WHICH ARE NOT PROVED."

To conclude, allusions have been made to the affairs of France. But with these I have nothing to do. This much, however, I will say, that excesses and sanguinary measures make no part of my principles. And I trust that such measures, and such conduct as has been attributed unjustly to that people, will never, and far less at present, be adopted by British tribunals nor approved of by British subjects; and may He who hath the hearts of all men in his hand, influence you to an unbiassed love of the truth, and direct you to return such a verdict as will be consistent with the future peace and consolation of your own minds, such a verdict, as will accord with those principles of free inquiry and communication, which are natural to men, as rational and social beings, and which are recognized by the law and constitution of this country.

Permit me to remind you of the advice of a learned Judge.

"*I verily* (saith he) *had rather twenty evil doers should escape death through tenderness, or pity, than that one innocent man should be unjustly condemned.*"

I shall conclude with that excellent advice of my Lord Coke, which he generally addresses to all judges, but may no less properly be applied to jurors:—

"Fear not to do right to all, and to deliver your verdicts justly according to the laws; for fear is nothing but a betraying of the succours that reason should afford: and if you shall sincerely execute justice, be assured of three things:

"1. Though some may malign you, yet God will give you his blessing.

"2. That though thereby you may offend great men, and favourites, yet you shall have the favourable kindness of the Almighty, and be his favourites.

"And lastly, that in so doing, against all scandalous complaints, and pragmatical devices, against you, God will defend you as with a shield.—'For thou, Lord, will give a blessing unto the righteous, and with thy favourable kindness wilt thou defend him as with a shield.' Psalm v. 15."

LORD JUSTICE CLERK.—Gentlemen of

the Jury, After so long a trial, and after hearing so much, I should not think it proper to detain you long; but, without running over and reciting the evidence, I would submit to your consideration a few general observations, which may be of use in forming your opinion upon the case.

Gentlemen, the crime here charged is that of sedition: by the penal law of Scotland, it is a crime very different from the law of England; for it is not necessary to have any act of parliament for it. But, gentlemen, although there is no special act of parliament for it, it is very well known that it is a crime of a high nature, and of a dangerous tendency. I take the crime of sedition to be *violating the peace and order of society*; and it is attended with different degrees of aggravation, according to what is the object of it. When sedition has a tendency to overturn the constitution of this country, it borders upon high treason; and if it goes that length, it loses the name of sedition, and is buried under the greater crime of high treason; and a very little more than is contained in this indictment, would have made it the crime of high treason. The crime charged is that of sedition, and the public prosecutor has, in the minor proposition, enumerated a variety of circumstances from which he infers this crime of sedition; and the conclusion of the libel is, that these facts or part thereof, being found proved by the verdict of an assize, he shall be punished with the pains of law.

Gentlemen, although the public prosecutor, in justice to the party, that he might see his way clear, to make his defence, has enumerated a variety of circumstances, from which he infers that this pannel was guilty of the crime of sedition. In order to procure a verdict, finding him guilty of these crimes, it is not necessary that all these facts should be proved, but the question you are to try, is whether he has been guilty, art or part, whether such facts and circumstances, as are stated, are not sufficient to convince you, that the pannel has been guilty of the crime of sedition: if you, upon the whole, are satisfied that what is proved against him does not amount to the crime of sedition; or is not sufficient to establish his guilt, you will find him not guilty, or the libel not proved; but if you think it is sufficient, then you will find the opposite verdict that he is guilty, or that the libel is proved.

Gentlemen, in considering this case, one thing occurs to me, and that is the conjuncture under which these facts are alleged; it was during the time when this nation is engaged in a bloody war with a neighbouring nation, consisting of millions of the most profligate monsters that ever disgraced humanity, justice will never enter into their ideas, but they swallow up all before them, and I say, gentlemen, that the greatest union in this nation is necessary, in these circumstances, to support us under this war, and therefore, gentlemen, supposing that, in short, this nation has been feeliug some grievances, from any imperfection attending the constitution, I say, under these circumstances, this is not the time to apply for relief, and I appeal to your own feelings, and your good sense, if it would not be brought forward better at any other time, and that we should employ all our force to get rid of that foreign enemy upon which the safety and the happiness of the country does in a great measure depend.

Gentlemen, any person who had never heard of the name of Great Britain, and knew nothing of its constitution, if the proceedings of these Friends of the People and this convention, and their publications, were put into his hands, I think the conclusion that would be naturally drawn by such a person would be, that it was a nation the most wretched under the sun, that we were liviug under the most despotic government upon the face of the earth, and were the most unhappy of mankind: that, I think, would be the idea of a man who knew nothing of this country, upon reading the publications of this convention. But, gentleman, I appeal to your own feelings and your own knowledge, how much it is the reverse of that. I believe every one must admit, that of all the nations under the sun, Great Britain is the happiest; and that under all the imperfections that may attend their constitution, it is the most complete system of government that ever existed upon the face of this earth, with all its imperfections. I am sure, gentlemen, you must all be sensible that you enjoy your lives and your properties, and every thing that is dear to you, in perfect security; every man is certain that he will not be deprived of any thing that belongs to him; and there is no man, let him be as great a grumbletonian as he will, if he is asked where he is hurt by the imperfections of the constitution, he cannot tell you, but, on the contrary, that he is living happily under it. Gentlemen, when that is the case, what construction must you put upon the proceedings of a society, who represent

this country as on the very brink of destruction? I submit it to you whether that is the work of the people, who have a real regard for society, and if you are of opinion, that these meetings are of a seditious nature, and of a seditious tendency; when the question comes home to the pannel at the bar, you must find him guilty; for, gentlemen, I must observe to you, that it is a rule in law, and a rule in good sense, that if a meeting is illegal, all the members of that meeting are liable for every thing illegal that is done at that meeting, the whole meeting are understood to be guilty, art and part, in the crime that is committed, and they are all and each of them amenable to the laws of their country for what they have done. And at common law, even in the commission of the crime of murder, and robbery, some persons may be more active than others, but they are all guilty art and part, and all equally liable to the punishment of the law; and those who have been more cruel than the rest may have a greater sting in their own minds, but, in the eye of the law, they are all guilty art and part. Then, gentlemen, you are to consider how far you can think Mr. Skirving innocent, when it is proved to you, by a number of witnesses, some of their own convention, and what is best of all is his own declaration, that he himself was not only present at all their meetings, but was secretary of the society, entrusted with every thing done by them, and according to the proof this day laid before you, when the officers of the law went, they seized all the papers and minutes of their proceedings. If you are of opinion that those meetings are of a seditious nature, how is it possible to find this man innocent, the whole meeting being guilty art and part, and he being secretary, is the most active man?—if one man can be more guilty than another, it is that man now standing at your bar.

Gentlemen, you will attend here to-morrow at two o'clock, to give in your verdict.

Mr. SKIRVING.—My lord, may I not be admitted to bail?

LORD JUSTICE CLERK.—No, you cannot; it is contrary to a rule of court.

Tuesday, Jan. 7, 1794, 2 o'clock.

The names of the Jury called over.

LORD JUSTICE CLERK.—Gentlemen, who is your Chancellor?

One of the Jury.—Alexander M'Kenzie, and David Anderson, Clerk.

VERDICT.

Edinburgh, January 7, 1794.

The above Assize having inclosed, made choice of the said Alexander M'Kenzie to be their Chancellor, and the said David Anderson to be their Clerk; and having considered the criminal libel raised and pursued at the instance of his Majesty's Advocate, for his Majesty's interest, against William Skirving, pannel, the interlocutor of relevancy pronounced thereon by the Court, the evidence adduced in proof of the libel, and the evidence in exculpation; they are all, in one voice, finding the pannel, William Skirving, GUILTY of the crimes libelled: in witness thereof, their said Chancellor and Clerk have subscribed these presents, consisting of this and the preceding page, in their names and by their appointment, place and date foresaid.

(Signed) ALEX. M'KENZIE, *Chan.*
DAVID ANDERSON, *Clerk.*

LORD JUSTICE CLERK.—Gentlemen, you have returned a very proper verdict, and I am sure you are entitled to the *thanks* of your country for the attention you have paid to this trial.

Mr. SKIRVING.—My lords, owing to an accident, I have been deprived of very considerable assistance, namely, the advice of counsel from London voluntarily transmitted to me. However, there is no help for it now; but there is one part of the advice of counsel, which may merit the attention, though not perhaps very orderly as to time, but if your lordship will allow me, I will state it. Upon the first page of the indictment it is said, "Whereas by the law of this, and every other well governed realm, '*Sedition*' is a crime of a heinous nature, and severely punishable." The observation of the counsel at London, is, "it will be necessary to ascertain, correctly, the definition of the crime of sedition. Erskine, Inst. 8vo. edit. p. 488, says, 'sedition consists in the raising of commotions or disturbances in a state. He indeed adds, that it is either real or *verbal*, but sedition can only be that offence whereby an actual breach of the peace is committed *in order to prevent the due course of law*, and though words of a seditious tendency may be furnished, yet where actual sedition is charged, as in this case, words or libels alone will not, without a real act of sedition, be sufficient to maintain the indictment.

"The crime charged is sedition, and the averment is, that the said William Skirving is guilty actor *or* art and part, that is, in the phraseology of the Scots law,

that he is either principal or accessory. But as this is stated in the disjunctive, it does not appear with certainty, whether he is charged as the principal or as accessory. He cannot be both principal and accessory, nor can he be indicted for both offences—THEREFORE the whole is void.

"This is an objection which will apply in arrest of judgment, therefore reserve it till after the verdict."

Now, my lord, if there is any thing in that opinion, I plead it in arrest of judgment, and as it is a thing not common in this court, I appeal to your lordships' candour, that if there is any justice to be obtained upon that point, I may obtain it.

Mr. SOLICITOR-GENERAL.—As to the nature of sedition, it was fully discussed in argument before your lordships yesterday. With respect to this learned opinion of counsel, he may be a very good English lawyer, and very eminent in his profession, but is perfectly ignorant of the law of Scotland; because as that is stated, it would be impossible for any person to be convicted of any crime, because I never saw an indictment but what charged a defendant with being guilty actor, or art and part thereof.

LORD JUSTICE CLERK.—If there had been any thing wrong in the proceedings, the court would have taken it into consideration.

Mr. SKIRVING.—After all that was stated yesterday as to sedition, I could get no satisfaction upon it.

Lords ESKGROVE, SWINTON, DUNSINNAN, and ABERCROMBY, now severally delivered their opinions, and thought that the pannel should not undergo a milder punishment than fourteen years' transportation.

LORD JUSTICE CLERK.—My lords, I feel very much for the situation of the pannel, but, my lords, we must not allow our feelings to interfere with the discharging of our duty, we must feel for the welfare of the country, and what would have been the situation of the country, if they had executed the scheme that they were meditating. My lords, I could have wished, and it would have made me happy, if he could have given a proper vindication of his conduct, so as to have got an acquittal from the crimes with which he is charged; and I should be very sorry to think, that he suffers for want of the advice of counsel; but, my lords, it gives me a great deal of satisfaction, that after the proof that was heard yesterday, the ingenuity of no counsel, Scotch or English, could have been able to have satisfied an intelligent jury, that this man was innocent of the offence charged against him. My lords, if he suffers for the want of counsel, he must, I am sure, impute that to himself, for he must know, that a man arraigned at the bar of this court, whether he has money to pay counsel, or whether he has not, he need not go without, for this court would appoint him one; but it is very odd, that he should, in place of applying to counsel here for advice, go to an English counsel, whose place it is not to know the law of Scotland, and who, certainly, had very little business with it. —But he reads something to teach us a little of the English law, but they certainly have no business with Scotch law, and he being to be tried in a court of Scotland, by the laws of Scotland, ought not to have meddled in it; and I am sure, however able an English lawyer he may be, he knows nothing of the law of this country, to say that a man cannot be charged as being guilty, actor, or art and part thereof. Nothing but a total ignoranee of the criminal law of this country eould have caused such an observation. As to the other part of the objection stated by Mr. Skirving, as to the nature of the erime of "sedition," I think we should not be deserving of the trust reposed in us, if we had this day to seek into the nature of that erime, when we have within these two months, for the same crime, passed sentence of transportation against two persons, Mr. Muir and Mr. Palmer. It is paying a very bad compliment to the court, after that, tbat we should now be told, we don't know what we are doing, and that we are yet to learn what sedition is. I thought we werc fully apprized of what sedition was, even before the case of Muir, which was followed by that of Palmer. And, I will say, that that opinion that the pannel just now read, is absurd in itself, because if acts of violence must be committed to make it sedition, it is impossible that the crime of sedition can be committed at all, because it then ceases to be sedition, it becomes high treason; and if any act of violence had followed these meetings, the consequence would have been thus, that gentleman would have stood there tried for his life, and the forefeiture of his estate, goods, and chattels, would have followed.

My lords, as to the punishment to be inflicted, as I have always considered sedition as the most dangerous crime that can be committed, I think we cannot discharge our duty to the country, unless we inflict for that erime a severe punish-

ment. Mr. Muir was transported for fourteen years, and the only hesitation in that case was whether it should be limited to fourteen years, or not. I have no inclination to go beyond in this case, but I think it is impossible we can, consistently with the justice of the country, pronounce a less sentence upon this pannel, than we did upon Mr. Muir.

My lords, it is an aggravation of his crime, that with the example of Muir and Palmer before him, if he had before that thought his conduct was innocent, and did not deserve a high punishment. He was told by the judges of this supreme court in that case, the nature of the offence; and any prudent man would have taken care to have regulated his conduct accordingly, and given over those rebellious practices; but in place of that, he continues their secretary, and attends the British Convention. And, my lords, I do conceive that if any more trials of this kind should happen in time coming, it is still a further aggravation, that they have had not only the example of Muir and Palmer, but of this man also, and my opinion is, that we cannot do less than transport him for fourteen years, and therefore I pronounce the same interlocutor that was pronounced upon Muir and Palmer in the same form of words.

THE SENTENCE.

The Lord Justice Clerk, and Lords Commissioners of the Justiciary, having considered the foregoing verdict, whereby the assize, all in one voice, find the pannel GUILTY of the crimes libelled: the said lords, in respect of the said verdict, in terms of an act passed in the 25th year of his present Majesty, entitled, "An act for the more effectual transportation of felons and other offenders, in that part of Great Britain called Scotland;" *ordain and adjudge* that the said William Skirving be transported beyond seas, to such place as his Majesty, with the advice of his privy-council, shall declare and appoint, and that for the space of fourteen years from this date, with certification to him, if, after being so transported, he shall return to and be found at large, within any part of Great Britain, during the said fourteen years, without some lawful cause, and be thereby lawfully convicted, he shall suffer death as in cases of felony, without benefit of clergy by the law of England: and ordains the said William Skirving to be carried back to the tolbooth of Edinburgh, therein to be detained till he is delivered over for being so transported, for which this shall be to all concerned a sufficient warrant.

(Signed) ROBERT M'QUEEN.

Mr. SKIRVING.—Conscious of innocence, my lords, and that I am not guilty of the crimes laid to my charge, this sentence can only affect me as the sentence of man.—It is long since I laid aside the fear of man as my rule,—I shall never walk by it.—And, my lords, I could not be ignorant of this sentence, because I knew it long before this;—and I had a letter from London, this very morning, informing me that such a sentence was to take place!

LORD JUSTICE CLERK.—You heard that from the counsel of London, too, I suppose?

Mr. SKIRVING.—No, I told your lordships that was a voluntary thing; I consulted no counsel.

My lords, I know that what has been done these two days will be rejudged;—that is my comfort, and all my hope.

APPENDIX.

TRIAL OF ROBERT WATT AND DAVID DOWNIE,

FOR

HIGH TREASON.

[*See Page* 54.]

ROBERT WATT and DAVID DOWNIE, the latter of whom was a witness in the case of Mr. Skirving, were tried for high treason at Edinburgh, in September, 1794. Downie, it would appear, was an honest Reformer; but Watt was a spy in the pay of government, and a great instigator in procuring the manufacture of pikes. He had some of these instruments secreted in his house, when a search was made for bankrupt goods;—the pikes were discovered;—Watt, as a Reformer, was apprehended, tried, and convicted of high treason—and government allowed their own tool, thus caught in the net he had prepared for others, to suffer the last penalty of the law. The indictment charged Watt and Downie with having wickedly and traitorously conspired and agreed to procure meetings to be held within this kingdom, under the name of Conventions, for the purposes of usurping and assuming the powers and government of legislation, in, for, and over the kingdom, of effecting an alteration in the mode of electing Members of Parliament; of obliging the King, against his will, to change certain laws relating to the administration of the kingdom; of raising an insurrection; of obliging the King to adopt certain laws which they wished; of consulting concerning the seizing upon the Castle of Edinburgh by force, with pikes, guns, battle-axes, &c., and also upon the Excise-office and Banks; of seizing upon the Lord Justice Clerk, Lords of Justiciary and Session, and Lord Provost of Edinburgh; of agreeing to be aiding in these conspiracies, and of instigating other persons to assist them in carrying the same into execution; of buying, and procuring to be made, pikes, spears, battle-axes, &c. for the above purposes; of raising and levying, and causing to be raised and levied, money, for the purpose of arming themselves and their associates: With writing and publishing wicked addresses, advising the subjects of the King to subscribe money: Employing John Fairley to distribute the same, and to persuade the people to give assurances to them of support; to inform them of how many they might depend upon; to persuade the people to send money to David Downie, and to purchase pikes, &c. for the purpose of arming themselves; and with employing William Brown and Robert Orrock to make pikes, &c. and cause them to be made for the above purposes; and which, when made, were concealed in the house of the said Robert Watt.

After the indictment was read over, Mr. Knapp asked Mr. Watt, whether he was Guilty or Not Guilty? To which the prisoner replied, *Not Guilty.*—

Mr. Knapp. How will you be tried?—*Prisoner.* By God and my country.—*Mr. Knapp.* God grant you a good deliverance.—The same questions were put to Mr. Downie, and similar answers returned.

Mr. Fletcher having suggested, that it would be proper to have it fixed which of the prisoners was to be tried first,

Mr. Anstruther said, by act of Parliament, each of the pannels had a right to object to thirty-five of the jury; and if they did not agree to object to the same gentlemen, the trials must be separate.

Mr. Fletcher said the prisoners would not agree in their objections.

The Lord Advocate then said, that the trials must be separate, and that Robert Watt was the first meant to be tried.

Watt's trial accordingly took place on the 3d of September. After the case had been stated by the Lord Advocate, the first witness called was Alexander Aitcheson, late goldsmith, who deponed, That he was a member of the British Convention, and assistant secretary to Mr. Skirving, and wrote a considerable part of the minutes, which he now knows; and has seen the same papers before in the Court of Justiciary: That several persons gave him assistance in writing the minutes; among others, George Ross. He recollects a motion by Mr. Callander, which caused some observation, and was referred to a committee. Mr. Sinclair moved an amendment, on which the convention declared they would continue permanent, and watch over the motions of Parliament. [Here the witness read part of the minutes, which concluded with these words: 'Here the members stood up, and solemnly passed the following motion.' This motion was left blank, and the witness could not say why it was so.] Deponed, That he knows Mr. Watt; and that, in January last, he was, along with him, a member of the committee of union: That the convention was dispersed in December, and the committee formed in January. The committee was to preserve union among the friends of reform. The Friends of the People met occasionally to keep up a correspondence about the plan of reform proposed by Mr. Pitt and the Duke of Richmond; and that Mr. Watt and he were members of the committee of ways and means, which was established for the purpose of paying the debts due by last convention to Mr. Skirving, &c., and has heard it said it was for the purpose of paying the expenses of delegates for a convention to be held in England. This convention was for the same purposes and objects as the former. Mr. Bonthron was a member of the British Convention. The purposes the convention had in view were the same which Mr. Pitt and the Duke of Richmond had in view twelve years ago. Depones, That he has heard, out of doors, something of arms; but cannot name any person who said so: That he has seen a pike in George Ross's: That he saw two in the possession of a blacksmith: That the committee of union met in Ross's. Depones, That he has heard, out of doors, of pikes being preparing for arming the people; but cannot say particularly by whom he heard it. He thinks it was about the time when Earl Stanhope delivered his speech about introducing foreign troops. Some said they would as readily arm against the French, as against other foreigners: others said they ought to arm in defence of liberty; but cannot say who were the persons that said so. There were perhaps five or six present when the conversation took place; it was the common talk of the day. He cannot say what the particular conversation was which he had with Mr. Watt the night the committee of ways and means, or sub-committee, was appointed in January; and cannot recollect any conversation in the committee: That he has been in Mr. Watt's house, but cannot recollect the conversation that took place. Here the witness was called upon by the Court to recollect himself.

The Lord Chief Baron bid him think seriously on the nature of the oath he had taken. The witness replied, he knew well the nature of an oath.—Prosecutor, Did any conversation pass between you and the prisoner about arms? Witness, Never: he only said that something of importance was

on the carpet, which would come before the public, or the world. This was about the time of Lord Stanhope's speech concerning arming the people.—Pros. What were your reasons for absenting from the committee of ways and means? Wit. Because I heard that some secret business was to come before the committee; and as my views, in so far as I was concerned in the cause of liberty, were always open and candid, I never afterwards wished to attend; but who informed me of this secret business I cannot remember.—Pros. Did you never give a different account of your conversation with Watt than what you now do? Wit. I never did; or if I did, it certainly was not true. The witness was removed.

William Lockhart, Sheriff's Chamber, said, He went to search the house of Mr. Watt for some goods which were secreted, belonging to a bankrupt. In the search he found some pikes. He made a second search same night, May 15th, and found some more pikes in a closet. The witness here produced the pikes, sixteen in number, and shewed that each pike had a socket, with a screw at one end, and the other was fitted to receive a shaft; and all the pikes fitted any of the screws. The witness also found the types of a hand-bill, which he likewise carried to the Sheriff's Chamber.

William Middleton, Sheriff-officer, said, That on 15th May last he searched the house of Orrock, smith at Dean: That he also searched Mr. Watt's house, where he found some pikes, and some types set up. In Mr. Orrock's house he found thirty-three pikes, some finished and some not. Here the witness identified the pikes, and shewed what were found in Orrock's smithy.

James Walker, in the Sheriff-clerk's office, deponed, That he saw a form of types in the Sheriff-clerk's office in May last;—saw an impression taken off them at Campbell Denovan's printing-office; and being shown a copy, depones, that it is the same impression.

Arthur Macewan, weaver, Water-of-Leith, deponed, That he was a member of the Society of the Friends of the People there; and he was a member of the Committee of Union which met in George Ross's. Being interrogated, Whether, at the third meeting of the Committee of Union, any plan was proposed by Mr. Watt for seizing upon the Government of the country? deponed, That Watt that night read a plan to seize upon the Lord Justice Clerk, Lords of Session, and Lord Provost: to light a fire at the Excise Office: That a body were to assemble at the Luckenbooths, in order to meet the soldiers, who would then naturally come from the Castle, whilst another body assembled at the Weigh-house, and thus to enclose the military: That others were to seize upon the Banks, and demand the money from the different banking-houses; and commissioners were to be appointed to receive the same: That no day was mentioned for accomplishing this; and he cannot remember whether it was to be in the day or night-time, though he rather thinks it was night: That Watt, after he had read the plan, put it into a press in his room, it being there where it was read: That he also read an address to the people, which was to have been issued after the attack had been carried into effect, ordering all farmers, dealers in corn, hay, &c. not to remove the same, under pain of death; and all gentlemen not to remove above three miles from their own houses, under the like penalty; and containing an address to the King to dismiss his ministers, and put an end to the war immediately, otherwise he might abide by the consequences; or, fatal consequences would ensue: That Watt called upon the deponent one day, and asked him to go with him to Orrock's; which he did: and Watt then employed Orrock to make pikes, a plan of which he drew upon the table, and desired him to be busy, and he would get the money as he finished them: That he had four thousand to send to Perth, besides what he had to distribute about Edinburgh: That one day he saw Orrock's servant manufacturing these pikes, and a gentleman's servant asked him what they were for; to which he answered, That they were meant for mounting to a gentleman's gate: That he understands Fairley was sent to the west country; and when he returned to the committee of ways and means, he informed

them that he had visited a number of places, of which he gave Watt a note: That *Paisley was in a state of great readiness:* That the witness said he would by no means agree to disturb the peace, or shed the blood of his countrymen; and the paper Watt read led him to imagine that was their intention: That he remembers hearing a letter read in the committee, which he now identifies: That he has heard of collections in the committee of union: That the society, of which he is a member, gave 15s.; and he knows of no other money they received, except a bill for £15, which they said they had got from Perth: That a paper, entitled, *Fundamental Principles*, was produced in the society by Mr. Watt.

William Bonthron, Broughton, deponed, That he was a member of the sub-committee, or committee of ways and means, but withdrew from them altogether about 17th April. Watt attended that committee, and the committee of union.—Pros. What made you withdraw from the committee? Wit. Different things, that at present I can't say. (He said he wished the Court to ask him the proper questions, for he remembered nothing at all of the matter; there was such a confusion about him, that it cut off his whole recollection.)—On being told that he was criminal in concealing the truth, he deponed, That he heard Watt read a paper.—Pros. What was the purport or substance of that paper? Wit. It went on such suppositions, that I looked upon the whole as a kind of frenzy; it contained something about seizing the Castle; but I don't recollect anything at all about it. Being interrogated, What the paper said of that matter? deponed, That a number of Friends of the People were to seize on the Castle, while the soldiers were decoyed down by a fire kindled about the Register-office, and likewise to seize on the Banks and Excise-office.

John Fairley, wright, Broughton, said, He was a member of the British Convention, and was chosen by a society to be a collector. They collected money and sentiments; because there was a number of people warmly attached to the cause, who could not give their attendance, but gave money, while others gave only their opinion. This was sometimes called a Committee of Ways and Means, where he was sometimes present with Watt. He heard there were some pikes got ready; and was not long acquainted with Watt when he shewed him some. They had once spoke about pikes before, and he (the witness) had a drawing of one made out, which he shewed Watt, who told him the pikes were intended for self-defence, and no person was to get them but those who wanted and paid for them. Watt proposed to shew the arms to the collectors, which the witness objected to as hazardous.—Pros. Did you ever say any thing about your fear of bloodshed?—Wit. I was expressing my fears, that the measures of goverument would drive the people to despair; and Mr. Watt answered, There would be no bloodshed; for those who were most active against the cause of the people would be imprisoned. He recollects Mr. Watt speaking of soldiers; on which the witness said, That if affairs came to extremities, he had no fear of the soldiers. The witness then said it was ouce mentioned, that, after seizing the obnoxious people here, couriers were to be sent to the country, to announce what was done: That Mr. Watt once told him, he would give him some of the arms to show the collectors, upon which he made some objections; and Mr. Watt replied, There could certainly be no objections to a merchant selling goods in his own shop: That Mr. Watt shewed him pikes in his own house, which he wished him to carry and show the collectors; but this he would not do. One day, said he, I proposed going to Borrostownness, when Bonthron asked me to carry a letter. Next morning I called on Mr. Watt, and he desired me to call at Mr. Campbell, hatter, and get a parcel; which I did. It contained papers. At Stirling, I delivered a copy of these papers to all the people I called on, viz. Dr. Forrest, in his owu house, where were several others.

Dr. Forrest, Stirling. A person, named Fairley, called on me in May last, telling me he was desired to inquire in what situation the society was.

He gave me three copies of printed hills, and a letter, and shewed me a paper, in which money was requested for Mrs. Skirving. It spoke about some collectors, or persons to be provided with ——

Pros. What was the construction you put on this blank? Wit. I supposed it should be filled up—"Arms."—Pros. What did you say to Fairley? Wit. I told him we did not wish to injure any one, and he should be cautious what he said.—Pros. Did Fairley say any thing of arms manufacturing in Edinburgh? Wit. He was talking about an invasion; and then made a draught of a halbert, and said, he knew a person who could furnish such instruments, who, I understood, resided in Edinburgh.—Pros. When the company supped, what was Fairley's conversation? Did he say any thing of a rising of the people? Wit. He did say something about it; but whether as a thing settled, or what might be done, I am not certain. Some conversation took place of a plan for disarming the soldiers: which, I understood, was to be done by the persons who sent Fairley west. He spoke of some people in Edinburgh who would repent their conduct, and would be imprisoned by the people who sent him. He spoke of collectors who were to head and command the people when they should rise. It was said there was to be a convention, similar to the British Convention in Edinburgh. From the conversation I had with Fairley, I gathered there was to be a rising of the people, and seizing of soldiers' arms.

Robert Orrock, smith, said he was a member of the Water-of-Leith Society, the British Convention, &c. He first heard of arms in March, when in George Ross's house. There were present Watt, Macewan, and Downie. The conversation took place about some speech in the newspaper concerning arms; and one of the persons present said the Goldsmiths'-hall people had got some, and we should apply for some too. It was said we would not get them; to which Watt answered, There was no law in Britain could prevent us. Some days after, Watt called on the witness, and wished to look at a weapon he had spoken of, and shewed him a draught of one. He accordingly made one like it, which he carried to George Ross's house, and shewed it there to Watt, Downie, and others. Some days after, about the 1st of May, Watt called at the Dean, and desired him to make a few pikes with cross axes, and two or three dozen of different forms. He asked how many I could make a-week? I said fifty. He asked if I could get sticks? I said I might. Some time after, Martin Todd called on me from Watt, and asked if I had made any of the instruments? He again called, and shewed me a large one, and desired I would make one like it. I said I would not. One William Brown afterwards called, and asked if I was making the pikes? I said I was; but he asked how we could get sticks, for there were thousands of them wanted. I then began to be alarmed; for William Brown made all his in secret. Watt afterwards desired me to say they were for the top of a gate. At first I thought they were for the defence of the country.

Martin Todd, smith, said, He remembers going from Watt to Orrock with a pike. Orrock returned it, and said he was going on with them as fast as possible.

William Brown, smith, said, William Robertson asked him to make some spears for a Mr. Watt; and when he told him he did not know but he might, he desired him to call on Watt, which he did; and he shewed him a spear, and asked if he would make some? Mr. Watt afterwards called at his shop, when the witness shewed him one half-done; and he told him he did not choose to make any more of that kind. He then ordered spears with sockets; and the witness made fourteen, and sent them to Watt's house, when he gave him a line to David Downie, who paid him the money.

John Fairley sent notice to the Court, that he wished to correct his former evidence. Being again called to the bar, said, he recollected Watt saying, that the banks and the public offices were to be seized; and those most against us, viz. the Aristocrats, were to be seized, and couriers to be sent to the

country with the news. The Magistrates of Edinburgh were also to be seized.

After the evidence for the Crown closed, Mr. William Erskine, junior counsel for the prisoner, said, that as the Court had sat so long, he would not trouble them with many words. He would rest his defence upon the correspondence carried on between the Right Hon. Henry Dundas, the Lord Advocate, and the prisoner; by which it would appear that he had attended the meetings of the Friends of the People with no other view than a design to give information of their proceedings. A letter from the prisoner to Mr. Secretary Dundas, was read, which stated, in substance, that as he did not approve of the dangerous principles which then prevailed in Scotland, and was a friend to the constitution of his country, he thought it his duty to communicate to him, as a good subject, what information he could procure of the proceedings of those who styled themselves Friends of the People. From an acquaintance with several of the leading men among them, he flattered himself he had this in his power; and then goes on to mention some of the names of the leading men in Perth, Dundee, and Edinburgh. In the first of these places he said he had been educated; and had resided in the two last for a considerable number of years.

To this letter an answer was returned, which was also read. It acknowledged the receipt of Mr. Watt's; and, after expressing a hope that things were not so bad as he had represented, desired him to go on, and he might depend upon his communications being kept perfectly secret. Another letter from Mr. Dundas to Mr. M'Ritchie, the prisoner's agent, was next read, in answer to one from Mr. M'Ritchie, requesting of Mr. Dundas what letters he had of the prisoner's. The answer bore, that all the letters he had received from Mr. Watt, had been delivered to the Lord Advocate.

Proof in Exculpation.

Mr. Clerk, Sheriff, deposed, That he found, upon the seizure of Mr. Watt's papers, amongst others, a scroll of a letter to Mr. Secretary Dundas, and that gentleman's answer to the prisoner, which Mr. Clerk produced.

The scroll and the answer were accordingly read.

The Lord Advocate was the only other witness examined on the part of the prisoner. His Lordship deponed, That, in the month of October, 1792, he had several conversations with Mr. Secretary Dundas, with respect to the then situation of the country; who mentioned, that he had received a letter from a man of the name of Watt, and desired his lordship might inquire whether he was a man in whom confidence ought to be reposed: That he had accordingly made such inquiry, and from the information he then received, had no reason to doubt he was a person in whom he could trust: That, in consequence of this, he had himself corresponded with the prisoner, in absence of Mr. Dundas, and had received him at his own house, where he gave him some information against different persons, whom the Lord Advocate did not choose to name, unless called upon to do so by the counsel for the prisoner: That Mr. Watt wrote him in March, 1793, that two persons had given him reason to believe that they had some information which they would be willing to divulge upon receiving, as he thinks, £1000, at least, down: That, as this was a pretty large sum, he consulted with some of his Majesty's ministers on the subject, and it was their opinion, as well as his, that the demand ought not to be complied with; not that he suspected Mr. Watt, but that he thought he might have been imposed upon: That Mr. Watt afterwards informed him, that, in order to induce the two persons to tell him what they had already disclosed, he had been obliged to accept a bill for £30, which he would be obliged to pay; upon which the Lord Advocate ordered a person in Edinburgh to pay him the money, as he did not wish to see him distressed: That the only piece of information he had received from Mr. Watt, which he thought of importance, was that a party of soldiers, on their way from Chatham to Perth, had been wrought upon to mutiny and sedition, and that a certain number of them had stated that, if

they were called out, they would not do their duty in quelling any disturbance which might happen; but that, upon the Lord Advocate's tracing the matter to the bottom, and examining the soldiers themselves, he found the whole to be a falsehood: That he did not entertain any bad opinion of Mr. Watt till the discoveries came out before the Secret Committee of the House of Commons; that Watt had dropt all attendance upon him since October last.—Here the proof ended.

The jury, after being addressed by Mr. Hamilton for the prisoner, and the Lord Advocate for the Crown, returned a verdict of *Guilty.*

The Court then proceeded to the trial of David Downie, which was very similar in its character to that of Watt. Alexander Aitchison was called to prove that Mr. Downie was a member of the British Convention.

George Ross deponed, That Downie, Watt, &c. belonged to a Committee of Union which met in his house.

Margaret Whitecross, formerly a servant to Mr. Downie, being shewn one of the pikes, and asked if she had ever seen any thing like it before? depones, That she saw a similar one in Mr. Downie's house one morning when she was dressing the dining-room: That Mr. Downie had come home late the previous night: That Mr. Downie's son, Charles, came out of an adjoining closet, where he slept, as soon as he had heard her in the room, and took it away; and, at this time, he had only part of his clothes on, and did not seem to have any other business in that room: That she remembers hearing Mrs. Downie ask her husband what he had done with the large *dividing-knife* which was found in the dining-room? To which he answered that he had locked it by: That she never heard her master speak of having such weapons to defend himself, and when she saw it she thought she never saw such a dividing-knife before. Being interrogated for the prisoner, depones, That she had it not in her hand: That there was a difference betwixt her mistress and her, and that the cause of the difference was, that she had engaged in another place when Mrs. Downie thought she had engaged with her for another term, and had therefore refused to pay her her wages, and owed 12s. at present.

Robert Orrock, smith, deponed, That he has heard of the committee of union, of which he, Macewan, Watt, Downie, and Stoke, were members: That he was present at a meeting when they were reading a newspaper: That there was great talk at that time of an invasion: That it was said, he thinks by Mr. Watt, that arms had come to the gentlemen of the Goldsmiths'-hall Association; and some of them said, that we had better apply for arms; but another said, that we need not apply, for none of the Friends of the People would get arms: That Watt said there was no law in existence against any person having arms; and the deponent said he would make one for himself: That Downie was present, as were Watt, Bonthron, and Macewan: that Watt afterwards came to him to the Water-of-Leith, and asked him if he had made such a weapon: That he told him he had, and shewed it to him. Mr. Watt then shewed him a plan of one, which he thought would do better, which he drew upon the table, and desired him to make one for him of that pattern, which the deponent did accordingly, and brought it up with him to the committee of union, but did not produce it there, but in the sub-committee, where Messrs. Watt, Downie, &c. &c. were present: That he saw one Wright either giving money to Downie, or receiving money from him: That some of them said his pike was too short in the curve, and also in the other end: That another person present drew a plan of the weapon larger in these respects, and Mr. Watt and Mr. Downie desired him *to have that in his eye;* and Watt asked him what would be the price of them; but he answered he could not say: That he then went into the other room; and when he was going away, Mr. Watt came to him, along with Mr. Downie, and desired him to make a few; and also desired him to leave his stick

with him; and being shewn the stick found in Watt's house, depones it is the same.

William Brown said he made fifteen pikes by Watt's order, to whom he delivered them, and he gave a line to Downie, who paid him 22s. 6d. for the fifteen pikes; the one was 1s. 3d. each, the other kind 5s. each. The line to Downie said, "Pay to Mr. Brown 22s. 6d., and I will count with you after."

After the evidence was closed, Mr. Cullen rose to charge the jury on the part of the prisoner, which he did in an ingenious and argumentative speech, which lasted upwards of three hours. He mentioned, that part of the evidence which regarded the taking of the Castle of Edinburgh, massacring the soldiers, seizing the judges, &c. which, said he, was one of the wildest phrenzies that ever entered into the head of man. This was not the plan of the prisoner, but of Watt. He alone was the framer and promoter of that diabolical business. But, he remarked, it is here attempted to be proved, that the prisoner and Watt were equally guilty in this matter. This was by no means the case; for, though the prisoner was a member of the British Convention, and afterwards of the committees of union, and ways and means, yet the intention of these committees was not to promote the treasonable plans and projects of Mr. Watt, but only to collect money for the purpose of carrying their plan of reform into effect, and for succouring some of their suffering friends. It had been attempted to be proved, that the prisoner had both employed and paid for making pikes; but the employment was not so completely proved as the law directs; and as to the money paid to William Brown, it was entirely on Watt's account. The rest of the evidence, Mr. Cullen argued, in a strain of very ingenious reasoning, amounted to nothing that could, in the most distant manner, affect the prisoner; and, on these grounds, he hoped that the jury would be of opinion with him, that the charge had *not* been sufficiently proved, and would therefore acquit the prisoner.

Mr. Anstruther, on the part of the Crown, replied. He said he was exceedingly sorry to say, that, from his opinion of the evidence produced, the charge was completely proved against the prisoner. He then took a pretty extensive view of the law of treason, in which he differed very much from Mr. Cullen. He said it was by no means a case of *constructive treason*, but a deliberate plan to overturn the government and constitution of this country; and therefore came fairly under that part of the statute of Edward III. of compassing and imagining the death of the King. He next proceeded to the evidence produced, beginning at the first motion of a design to call a convention, which design, he said, was clearly and distinctly proved. The next part of the evidence was the prisoner's conduct as a member of the committees of union, and ways and means, whose views Mr. Cullen had said were solely to promote the cause of reform: but he differed very much from him with regard to this circumstance: for, taking the correspondence of Hardy and Skirving; the proceedings of the British Convention; the meetings held at the Globe Tavern, and Chalk Farm, upon the principles held out by themselves, and upon whose resolutions those committees acted, what was their language? Was it to petition King, or petition Parliament? No; it was, as all their proceedings bear, to do something stronger than petition;—it was to effect their purpose by *force*, which they said petitioning had not been able to do. There could be no doubt this was treasonable; and the evidence fully justified him in saying, that the prisoner had acceded to every particular. He next adverted to the plan of taking the Castle of Edinburgh, &c. which plan, no doubt, was Watt's; but the prisoner did not dissent from that plan, as Macewan and Bonthron had done, nor absent himself from the meetings of the committees; but, on the contrary, he, along with Watt, employed Orrock to make the pikes; paid money to Brown for making them, and to Fairley, to enable him to go to the west country upon their business. In short, the prisoner completely acceded

to every part of Watt's plan; and, besides all this, the evidence fully proved, that a pike was found in the prisoner's house, and that he was concerned in circulating a seditious hand-bill, tending to debauch the minds of the Fencibles of this country; a copy of which hand-bill was clearly traced to the prisoner. Mr. Anstruther now took notice of the great pains that had been taken, by some evil-minded people, to seduce the lower ranks in this country from their duty and allegiance; and respecting this he gave an elegant quotation from the Roman historian Livy, the purport of which was, that when the lower orders of the people rose against the constituent authority of a country, the consequence was, that nothing but anarchy and confusion ensued, and that country was completely wretched. He concluded with saying, that no doubt remained in his mind, that the charge was completely proved; if, however, the jury thought otherwise, he would be happy at the acquittal of the prisoner.

The jury were then attended by two constables, to be inclosed. They remained out of Court about forty minutes, and they returned their verdict—*Guilty.*

After which their Foreman said, My lord, I am desired by the jury to say, that, on account of certain circumstances, *they unanimously recommend the prisoner to mercy.*

The court adjourned till Saturday at 12 o'clock.

Sept. 6.—The court met at 12 o'clock, agreeable to adjournment.

After some steps of form, proclamation was made by the crier, and silence being ordered, Mr. Knapp desired Robert Watt to hold up his hand, upon which he read to him shortly the accusation for which he was tried, and said, "To these charges you pled *Not Guilty*, and cast yourself upon God and your country; that country has found you *Guilty.* Have you any reason to assign why the sentence of the law, which is death, should not pass against you?"—The same he recited to David Downie. Both prisoners remained silent.

The Lord President then addressed them in a most solemn and affecting manner; after which he said, the painful duty which now remains for me to perform, is to pronounce the sentence of the law, which is—

"You, and each of you, prisoners at the bar, are to be taken from the bar to the place from whence you came, and from thence to be drawn upon a hurdle to the place of execution, there to be hanged by the neck, but not till you are dead; for you are then to be taken down, your heart to be cut out, and your bowels burned before your face, your heads and limbs severed from your bodies, and held up to public view, and your bodies shall remain at the disposal of his Majesty; and the Lord have mercy on your souls!" After which, the Lord President informed the prisoners, that the Court would issue a precept to the Sheriff, ordering their execution to take place on Wednesday, the 15th day of October next, between the hours of twelve o'clock, noon, and four o'clock, afternoon. The prisoners were then both carried to the Castle.

Downie was reprieved and banished, but Watt was executed on the 15th October, 1794. The following account of his execution is taken from the newspapers of the day.

15th October.—Robert Watt, convicted of high treason, was executed at the west end of the Luckenbooths, pursuant to his sentence. About half-past one o'clock, the two junior Magistrates, and the Rev. Principal Baird, walked from the Council-Chamber to the Castlehill, preceded by the city constables, and town-officers, and the city guard. When they reached the Water-house (the limits of the burgh), they were met by the procession from the Castle, which was in the following order: Two Chief Constables of the shire of Edinburgh, in black, with batons—two county constables with batons. The Sheriff-Depute and Sheriff-Substitute, dressed in black, with white gloves and white rods. Six county constables, two and two, with batons. The hurdle, painted black (drawn by a white horse), in which

were seated the executioner, dressed in black, with the axe in his hand, and the criminal drawn backwards, and tied to the hurdle. Six under constables on each side of the hurdle—twelve on the outside of them, and twenty in the rear. Two hundred of the Argyleshire Fencibles keeping off the mob, walking the dead-march from the Castle to the Water-house.

Having entered the tolbooth, the criminal, soon after, attended by the Sheriff and Magistrates, came out upon the scaffold, where he was assisted in his devotions by Principal Baird. About a quarter before three he ascended the platform; but craving some longer indulgence, he came down, and kneeling, prayed with much fervency for a short time, when he again mounted, and having dropped a handkerchief as the signal, the platform dropped about three o'clock.

When the body had hung about thirty-two minutes, it was cut down lifeless, and placed on a table. The executioner then come forward with a large axe, and at two strokes severed the head from the body. The head having been received in a basket prepared for the purpose, was afterwards, in the usual form, held up by the executioner, who pronounced, "This is the head of a traitor."

This execution was conducted with much regularity, and the procession in particular was highly solemn and impressive. Watt himself exhibited a picture of the most abject dejection. He was wrapt up in a great coat, a red nightcap (which on the platform he exchanged for a white one), with a round hat, his stockings hanging loose, and his whole appearance wretched in the extreme.

The crowd on this occasion was slow in collecting, and though numerous at last, scarcely amounted to what had appeared at former remarkable executions.

Robert Watt, aged about 36, was the natural son of a gentleman of fortune and respectability in the county of Angus, but, as is usual, took the name of his mother. At about 10 years of age he was sent to Perth, where he received a good education; and at 16, he engaged himself with a lawyer; but, from some religious scruples, took a disgust at his new employment; and, removing to Edinburgh, was engaged as a clerk in a paper warehouse, and lived for some years without any other complaint than the smallness of his salary. Being desirous of becoming a partner of the business, he, by the influence of some friends, prevailed on his father to advance money for that purpose; and then made proposals to his employers: but his offer was rejected. Having money in possession, he entered into the wine and spirit trade, and for some time had tolerable success. He eventually, however, became bankrupt; and, to better his fortunes, he offered himself to the Home Secretary as spy and informer, but, by the just judgment of God, speedily fell into that snare which he was preparing for others.

THE END.

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